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# SOME LEGAL ASPECTS OF RAILROAD RATE-MAKING BY CONGRESS.

BY RICHARD OLNEY.

THE real proposition now before the country cannot be mistaken, however indirectly stated or ingeniously disguised. It is that Congress create a Commission which shall prescribe the rates of charge of common carriers engaged in the transportation of persons and freight between States, or between a State and a foreign country. Congress gets whatever authority it has over the subject-matter under its power "to regulate commerce with foreign nations and among the several States," and it is settled that commerce includes transportation.

The pertinent legal inquiries, therefore, are, first, Does the commerce clause of the Constitution authorize Congress to prescribe the charges of carriers engaged in the business of transportation with foreign nations and among the several States; second, If it does, may Congress delegate the power to a Commission; and, third, If it does, is the power qualified, and how, by the constitutional prohibition upon any preference to the ports of one State over those of another?

These questions may be conveniently considered in the reverse order of their statement.



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I.

The port-preference clause of the Constitution is, of course, a limitation of the power of Congress to regulate the national commerce. That regulative power is not to be exercised so as to give an advantage or preference to a port or ports in one State over the port or ports of another State. The manifest purpose is that, so far as the ports of the several States are concerned, national commerce shall be free to flow in its natural channels, and shall not be diverted from one port to another by any interference on the part of the National Government.

The great trunk lines of the country, engaged in national transportation between the interior and the sea-board, now carry on the business largely on what is known as the differential system. That system puts the ports on a common footing—puts a naturally inferior port on the same plane as a port naturally superior, by permitting the carrier that serves the former to charge lower rates. This equalization of the commercial qualities of ports, diverse in natural advantages, is competent for the railroads, since the property they own is private property and is practically under private control. But the same equalization is not within the power of the political entity known as the United States, since its powers are strictly limited by the national Constitution. Even if the commerce clause enables it to prescribe the rates of national transportation, yet it must do so subject to the express limitation of that power against the preference of one port over another—a limitation which may be as surely overstepped by governmental rate discriminations as by any other method.

The published opinion of the Attorney-General on this point impliedly admits the possibility of a regulation of land transportation which would be in conflict with the port-preference clause of the Constitution. He contends, however, that differential rate-making by the National Government on the lines now practised by the principal railroads of the country is not obnoxious to that clause because its operation upon ports is purely incidental and indirect. It is believed that that contention will not bear examination.

(1) The equalization of the advantages of different ports, so far from being an incidental and indirect result of differential rates, is an immediate, direct and intended result.

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(2) It would be none the less immediate, direct and intentional if it were one of several results contemplated; if, in addition to such equalization for the benefit of a port or ports, the purpose were to also promote the interests of both the interior producer and the carrier.

(3) The facts are, however—facts of such notoriety as to need no proof—that differentials between railroad lines running from the interior to the sea-board are, as a rule, made and justified primarily and principally in the interest of ports.

(4) The interest of the producer in the interior is that the products designed for export shall reach the best port by the shortest and cheapest route. An arrangement putting the naturally inferior port on a par with the best port and a naturally inferior route on a par with the best route is prejudicial to the producer.

(5) That differentials which favor a port may also favor the carrier concerned is, of course, unquestioned. But the point is—which is to be deemed their chief object and their true justification, the benefit to the carrier or the benefit to the port?

(6) From the point of view of the law and of public policy the answer to this question seems to be plain. Railroads are essentially private property with whose management by private persons Government interferes only in the public interest. Differentials are devices which mitigate the stress of competition between carriers. But competition is the general public policy of the country, and when that policy is permitted to be modified, the modification is not made on behalf of the carriers with whose business success or failure as private persons or corporations Government is no more concerned than with the business success or failure of private persons generally. The modification is made solely on behalf of the public—of the public generally or of a local community whose affairs have a public significance and importance.

(7) It follows that the differentials common between railroad lines serving ports of dissimilar commercial advantages must be deemed to have equalization of ports as the primary object and advantage to carriers as something altogether secondary. Benefit to the inferior port is the principal thing, advantage to the carrier to that port the incident.

(8) It follows further that a necessary consequence of Con-

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gressional railroad rate-making must be the abandonment of the present system of port differentials, a system to which many ports and existing railroad lines are indebted for the business and prosperity they are now enjoying.

(9) In the matter of the "Differential Rates to and from North Atlantic Ports," recently heard by the Interstate Commerce Commissioners as arbitrators, the majority considered themselves at liberty to determine, "not whether these differentials are lawful merely, but whether on the whole, considering the interests of all parties, they are fair"—and made a report accordingly.

One of the Commissioners, Mr. Clements, dissented from the report on grounds which are indicated by the following extracts from his written opinion and which seem to show that in his judgment differentials in freight rates on export traffic moving through different ports between competing railroads leading thereto are illegal:

"There is a manifest and radical difference between a matter of discrimination like that by a carrier between places on its line, and which is clearly covered by the provisions of the third section of the Act to regulate commerce and the fixing of differentials in rates to or through the various ports and over independent and competing railroads. In the latter case the law has undertaken to leave the free play of competition to adjust rates, subject only to the requirements made of each carrier that its rates shall be reasonable and just and shall not unduly discriminate between commodities or between persons and localities reached or served by it and that duly established and published rates be observed. . . . While the situation justified the inquiry, the facts disclosed do not, in my judgment, justify the conclusions reached for the reason that I believe they do violence to the great principle of competition which the Congress and the Supreme Court have so jealously and consistently nourished as one of the fundamental rights of the public. In declaring as between competing lines and competing ports what differentials shall govern, assuming that they will govern, we hamper competition, and by this regulation of distribution effect in reality a division of territory, a division of traffic and a division of earnings, which in substance and effect tend to defeat not only the purposes of the Anti-Trust Act against the restraint of trade, but the pooling provision of the Interstate Commerce Act, with the enforcement of which the Commission is charged. . . . The unmolested freedom of competition by lawful methods, permitting the free course of traffic is more likely to give to each community and carrier the fair and just rewards of its enterprise and public spirit and just rates to the public than any devised plan of fixing differentials between competing

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carriers to compose conflicting interests by apportionment of the traffic and which in the nature of the case must be more or less arbitrary. It is at least safe to keep within both the spirit and letter of the law."

II.

Even if Congress may itself dictate rates of national transportation, is it competent for Congress to delegate that power to a Commission?

The precise question may fairly be deemed an open one so far as the Supreme Court of the United States is concerned, and it is believed that, on the principles asserted by that Court in dealing with other subjects-matter, if Congress is authorized to prescribe such rates, it must do so itself by positive and explicit enactment.

*First.* There are *dicta* by judges in various cases decided by the Supreme Court, to the effect that Congress may regulate rates of national transportation either directly or by a Commission. In other cases, the point has been taken for granted. But an examination of the cases shows that whether authorizing a Commission to fix rates is or is not a delegation of legislative power which Congress is incompetent to make has never been the ground of decision in any case, and presents an issue which has never been thoroughly discussed either at the bar or by the Court.

*Second.* The nearest approach to such discussion by the Court is to be found in Chicago, etc., Ry. Co. *vs.* Minnesota (134 U. S., 418), in the dissenting opinion of Mr. Justice Bradley. While Mr. Justice Blatchford, speaking for a majority of the Court, may be thought to impliedly affirm the right of Congress to make rates through a Commission, and Mr. Justice Miller, in a concurring opinion, affirms such right, Judge Bradley argues in its favor. If the legislature had fixed the rates, he says:

"It would have done it through the aid of committees appointed to investigate the subject, to acquire information, to cite parties, to get all the facts before them, and finally to decide and report. . . . And if the legislature itself could do this, acting by its committees, and proceeding according to the usual forms adopted by such bodies, I can see no good reason why it might not delegate the duty to a Board of Commissioners."

But it is difficult, if not quite impossible, to follow the learned judge's reasoning. A legislative committee, by and of itself,

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enacts nothing—it reports to the body of which it is a part, and its conclusions, if they are adopted and become laws, are such because they are the conclusions of the legislature. If Judge Bradley is to be regarded as having in mind a Commission which should report to the legislature and whose recommendations would have the force of law only if approved and adopted by the legislature, his reasoning is appropriate and weighty. As applied to a Commission determining rates of itself and without any reference to the legislature, it has no bearing on the real point at issue.

*Third.* If to prescribe rates for railroads engaged in national commerce is a legislative function, the power is one to be exercised by Congress directly and cannot be delegated to a Commission. On this point the indeterminate and confusing attitude of the United States Supreme Court is well illustrated by the opinion given in Interstate Commerce Commission *vs.* Railway Company (167 U. S., 479), the case in which it is expressly and finally adjudicated that the Interstate Commerce Commission is without power to fix rates. On page 494, the Court says:

"Congress might itself prescribe rates; or it might commit to some subordinate tribunal this duty; or it might leave with the companies the right to fix rates, etc."

But, on page 505, the Court says:

"The power to prescribe a tariff of rates for carriage by a common carrier is a *legislative* and not an *administrative* or judicial function, and, having respect to the large amount of property invested in railroads, the various companies engaged therein, the thousands of miles of road, and the millions of tons of freight carried, the varying and diverse conditions attaching to such carriage, is a power of supreme delicacy and importance."

Again, on page 511, the Court says:

"Our conclusion then is that Congress has not conferred upon the Commission the *legislative power* of prescribing rates either maximum or minimum or absolute."

*Fourth.* But, as already stated, if to prescribe rates is a legislative function, the function cannot be delegated. The principle has often been affirmed by the Supreme Court of the United States, and in Field *vs.* Clark (143 U. S., 649) there is a clear statement of the rule which determines whether or

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not a delegation of legislative power has been attempted. There the President was authorized to suspend the free introduction into this country of certain products of other countries when satisfied that the producing foreign country was imposing duties upon United States products in his judgment reciprocally unequal or unreasonable. Two of the Justices held this legislation unconstitutional as transferring legislative power to the President. The majority ruled to the contrary, but were enabled to do so by construing the statute as authorizing the President not to make but to execute the law. He was deemed the mere agent of the law-making department, to ascertain and declare the event upon which its expressed will was to take effect. Adopting the language of the Supreme Court of Ohio, the Court said:

> "The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."

*Fifth.* If the rule thus above stated be applied to the question whether or not authorizing a Commission to prescribe railroad rates is a delegation of legislative power, the only conclusion possible accords with Judge Brewer's declaration, viz., that making rates is not an administrative nor a judicial but is a legislative function.

(1) There is no resemblance between such rate-making and the ascertainment of a contingency which is to make a law effective. Such ascertainment may call for investigation and the exercise of judgment. But the law which is to be operative in consequence of such ascertainment is a law made by the legislature and not by the executive board or official whose action makes the law effective.

(2) On the other hand, to make such rates is to lay down the rule by which conduct is to be governed, is to declare what that rule shall be, and does not merely fix the time or ascertain the circumstances in which such rule shall apply and govern. Discretion as to what the rule of conduct shall be is one thing—discretion as to the time and conditions of the operation of the rule is another thing—the discretion in the former case must

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be exercised by the legislature, in the latter it may be delegated to an executive or administrative officer or tribunal.

*Sixth.* It was intimated by Chief-Justice Marshall that the importance of the matter dealt with will determine the question whether or not there is an attempted delegation of legislative power:

> "The line has not been exactly drawn which separates those important subjects which must be entirely regulated by the legislature itself from those of less interest in which a general provision may be made and a general power given to those who are to act under such general provisions to fill up the details." (Wayman *vs.* Southard, 10 Wheat., 1.)

But, if the criterion thus suggested be the true one, the conclusion that the power to make railroad rates for the country at large cannot be given to a Commission follows inevitably.

The power, to quote Mr. Justice Brewer, is of "supreme delicacy and importance," and the vast consequences to the material growth and prosperity of the country of the wise or unwise exercise of the power it would be difficult to exaggerate.

It is suggested that railroad rate-making requires expert and scientific ability of a high order and cannot be intelligently done by a legislative body. But the proposition, while sufficiently correct, tends to show nothing more than that Congress, or any other legislature, should not act on the subject without calling to its aid the necessary scientific and expert ability. It may do so through a committee of its own body or through an independent Commission which reports to it in the same manner as a committee.

To fix railroad rates of national transportation is hardly a more complex and difficult task than to fix the duties on imports under our system of high protection. But it has never been claimed that the latter task was an impossible one. Much less has it been claimed in Congress or elsewhere that by reason of its difficulty or for any other reason it was competent for Congress to empower a Commission to make a tariff.

*Seventh.* It is claimed that Congress may give to a Commission its railroad rate-making power either by way of exception to the rule against the delegation of legislative power or because the power is in its nature not legislative but administrative. The claim, it is believed, must rest only on the ground last named—

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there being the strongest possible presumption on grounds of principle and public policy against any exception to the rule that the legislature alone can legislate.

Illustrative of administrative functions which the legislature may delegate are the powers given to Boards, corporations or other agencies, to determine whether and when and between what termini public necessity and convenience require highways and railroads to be established; to lay them out accordingly; and to expropriate the land or other property needed therefor. In those cases, the Boards and other agencies employed make no laws and exercise no discretion as to what the laws shall be. They fit the laws to the facts of a particular case—they determine the existence of the physical and commercial conditions to which the existing laws are applicable and which require such laws to become operative—and the discretion exercised is in its nature not legislative but administrative. Hence, when such discretion affects private rights and calls for the exercise of judicial functions, the action of the agencies in question is merely preliminary and *prima facie,* and is always reviewable by the courts.

The contention is that, on the same grounds as justify the legislature in employing such agencies, the power of making rates for the railroads engaged in national transportation is to be deemed administrative and so may be delegated by Congress to a Commission. But the difference is plain and is vital.

(1) When such a Commission establishes rates which the carrier must comply with, a new law, a new rule of conduct, comes into being. It is not the case of an old law being made effective and becoming operative upon facts and conditions to which it was always meant to apply when the necessary facts and conditions had been officially ascertained. The Commission's edict as to rates has all the earmarks, all the characteristics, of legislation.

(2) The answer to the foregoing proposition, as contained in the Attorney-General's opinion, is that the Commission's rate-making is not legislation but the execution of legislation; that Congress has expressly prescribed the rates of carriers engaged in national transportation by declaring that such rates shall be just, reasonable, and non-discriminatory; and that in preparing and promulgating schedules of the actual rates to be

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charged by the carriers, the Commission's functions are administrative and not legislative.

(3) But a legislative declaration or enactment that rates shall be just and reasonable and non-discriminatory expresses the character they are meant to have when fixed. It does not actually prescribe the rates themselves. No more does it prescribe them potentially because it furnishes no standard of justice, reasonableness, etc. That standard, in the event of a supplemental law authorizing a Commission to fix rates, is of course to be supplied by the Commission itself. But it is difficult to conceive of anything more clearly legislative in every characteristic than the fixing of such a standard. That its application when fixed may be left to a Commission may be conceded. But that the determination of the standard itself is for the legislature and the legislature alone, and that to assign the function to a Commission is but an invalid attempt to delegate legislative power, would seem to be clear.

(4) It is insisted that when Congress declares that carriers' rates on national transportation shall be just, reasonable and non-discriminatory, it furnishes all the rate standard that is required, has exercised all the legislative discretion that is necessary, and may commit to an executive officer or Board the power to determine the actual rates which such standard calls for. The better view would seem to be, however, that such a Congressional declaration is too general, indefinite and vague to be regarded as a rate standard; that it describes the nature of the desired results to shippers rather than the character of the rates themselves; and that, to empower a Commission to make rates with no other guide than such a declaration is a complete transfer to the Commission of the legislative discretion which Congress alone is competent to exercise.

*(a)* In Field *vs.* Clark, *supra,* the President's official declaration of the existence of certain facts was to have the effect of making vital and operative certain legislation already enacted by Congress. If, however, upon the making of the same declaration by the President, Congress had undertaken to authorize him to impose upon the products of certain foreign countries such duties as he should deem reasonable, the principle affirmed in that case would have compelled the Court to pronounce the legislation void as an attempted delegation of legislative power.

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*(b)* But Congress can no more grant legislative power to a Commission than to the President—can no more delegate to any person or tribunal the power to determine reasonable rates of transportation than the power to determine reasonable duties on imports—and in each case, while it may authorize a Commission to work out details, must itself determine the standard of reasonableness.

*(c)* Buttfield *vs.* Stranahan (192 U. S., 470) well illustrates the class of cases in which the legislature may leave administrative details to an executive officer or Board, without delegating any portion of legislative power. The object of the statute involved in that case was—as the Court expressly declares—to exclude from the country the lowest grades of teas, "whether demonstrably of inferior purity or unfit for consumption or presumably so because of their inferior quality." "This," says the Court, "in effect was the fixing of a primary standard and devolved upon the Secretary of the Treasury the mere executive duty to effectuate the legislative policy declared in the statute." The law, that is, was complete, with the exception of failing to specify what were the lowest grades of teas—a matter of fact and of detail it instructed the executive department of the Government to ascertain in the manner the law itself points out. In this case, manifestly, the legislative discretion had been fully exercised; the legislature declared as the rule of conduct that the lowest grades of teas should not be imported; and it delegated discretion not as to the rule itself but only as to what grades of teas were lowest—a fact to be ascertained by the executive department in the prescribed method.

*(d)* But between a grant of authority to a Commission to ascertain the lowest grades of teas and a grant of authority to a Commission to make railroad rates for national transportation there is no resemblance whatever in point of law or point of fact. Whoever prescribes a carrier's rates, for example, lays down the most important of all the rules by which the carrier's business is governed. In the rate-making power, indeed, is the very essence of the carrier's interest in his business and property. As the power is well or badly used, the carrier will be solvent or insolvent, and his business will be efficiently and prosperously conducted, or will cease to be of value to him or for any purpose.

The importance of the rate-making power is not to be con-

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sidered, however, simply in its relation to the carrier. The most important bearing of the power is upon the public interests the carrier serves. It is matter of common knowledge—of which the Courts take cognizance without proof—that the great carriers of the present day are the railroads. It is equally matter of common knowledge that the rates charged by the railroads affect all classes of the community; that they determine very largely the outcome of all private enterprises; and that upon them hinges only too often the material well-being if not the very existence of towns and cities and sea-ports and large sections of country. Surely a power the exercise of which is fraught with such consequences is not to be classed legally or practically with the power of determining the "cup quality" of teas. The latter may well be delegated to an executive officer or Board. But to delegate the former, the ultimate rate-making power for railroads, to such an officer or Board would be a surrender by the legislature of one of its most important functions.

*(e)* In connection with the argument that Congress has made a sufficient standard of railroad rates by declaring that they shall be just, reasonable, and non-discriminatory, it is pertinent to ask how the situation would differ if Congress, without having laid down any general maxims on the subject of rates, had simply given to a Commission the rate-making power. Would a Commission in those circumstances be at liberty to make rates that were unjust, unreasonable, and discriminatory?

*(f)* A statute of Wisconsin authorized its State Board of Health to make such rules and regulations and to take such measures as might in its judgment be necessary for the protection of the people from Asiatic cholera or other dangerous and contagious diseases. The Board having required a certificate of vaccination as a condition of attendance upon the public schools, the law was held void as a delegation of legislative power. The Court affirmed the right of the legislature to authorize State or local Boards of Health to make reasonable regulations to carry into effect "appropriate general provisions of law in relation to the prevention and suppression of dangerous and contagious diseases. . . . *But there must be some substantive provision of law to be administered and carried into effect.*" (State *vs.* Burdge, 95 Wis., 390.)

*(g)* The insuperable objection which the Court found to the

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Wisconsin law in the case just cited applies with equal force to the Congressional legislation under consideration. A law that carriers' rates shall be just, reasonable and non-discriminatory, regarded as a rule of future conduct, is much like a law that individuals shall be good, virtuous and law-abiding. In each case there is wanting the specific standard by which conduct is to be governed; or, to use the language of the Wisconsin Court, "some substantive provision of law to be administered and carried into effect."*

*(h)* That Congress—if it has the power to dictate the charges of national carriers—may empower a Commission to do the administrative and detail work involved in fixing the actual rates need not be disputed. But the specific rules in accordance with which that work must be done are to be prescribed by Congress itself, and call for the exercise of a discretion which is legislative and not administrative or executive. An interesting discussion of the precise question in Chicago & N. W. Ry. Co. *vs.* Dey (35 Fed. Rep., 866) tends to illustrate the difference between legislation which, as furnishing a rate standard, is not a delegation of legislative power, and legislation which, as not furnishing such standard but merely declaring the nature of the general results aimed at, constitutes such a delegation:

"While . . . it must be conceded that the power to fix rates is legislative, yet the line of demarcation between legislative and administrative functions is not always easily discerned. The one runs into the other. . . . Here it [the legislature] has declared that rates shall be reasonable and just, and committed what is, partially at least, the mere administration of that law to the Railroad Commissioners. Suppose, instead of a general declaration that rates should be reasonable and just, it had ordered that the rates should be so fixed as to secure to the carrier above the cost of carriage three per cent. upon the money invested in the means of transportation and then committed to the Board of Railroad Commissioners the fixing of a schedule to carry this rate into effect, would not the functions thus vested in such Board be strictly administrative?" (*Per* Brewer, J., p. 874.)

*(i)* It is clear—is not denied—that there may be regulations of land transportation which will be obnoxious to the port-preference clause of the Constitution. Is the discretion as to those regulations something of which Congress can divest itself

* See Louisv. & Nash. R. Co. *vs.* Commonwealth (99 Ky., 132). Louisv. & Nash. R. Co. *vs.* R. R. Commission (19 Fed. Rep., 679).

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in favor of a Commission? It would seem to be hardly debatable that the momentous question whether the port-differential system now in vogue between railroads running to the sea-board shall continue or shall be abandoned and a strictly mileage basis substituted must be decided by Congress direct and not by any subordinate or administrative tribunal.

*(j)* Yet the question arising out of the port-preference clause of the Constitution is but an illustration of many other grave questions affecting railroad charges which are constantly arising in the course of the management of the great railways of the country.

*Eighth.* That Congress, if it seriously undertakes the business of railroad rate-making for national transportation must ascertain and establish as many standards of reasonableness as there are carriers engaged in the business—and that the work of establishing them involves many important, difficult and intricate problems—does not affect the principle, though it does show that Congress cannot move in the matter with too great care, and should not move at all until assisted by the report of a competent and expert Commission.

The English Parliament, in 1888, took up the subject of railway freight rates by an act one of whose principal objects was the establishment of such rates on a just, reasonable and non-discriminating basis. There followed a most prolonged and elaborate investigation by a Commission, which gave hearings lasting for months to all parties interested and their counsel, and which finally reported classified schedules to the Board of Trade. These were carefully considered and passed upon by the Board, were by it reported to Parliament, and in 1891, three years after the initiation of the inquiry, were by that body enacted as laws of the land.

It is believed that rate-making for American railroads—with their mileage of about 200,000 as against an English mileage of 23,000, and serving a territory of 3,600,000 square miles and a population of 80,000,000 as against the 120,000 square miles and the 42,000,000 population of the United Kingdom—is to be undertaken with at least as much intelligence, deliberation and patient consideration as characterized the like proceeding in England, and here as there must rest for its final adoption and sanction upon the authority of the national legislature

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itself, and not upon that of any subordinate or administrative tribunal.

III.

Can such a power in Congress as the right to dictate rates to the carriers of the country—a power never yet exercised either directly or indirectly through a Commission—be justly regarded as conferred by the Constitution? If it exist, it is limited to national business—the like power in respect of intra-State or local business, if it exist, being vested in each State. But a power which it is right and expedient for Congress to exercise over national business, it is presumably right and expedient for each State to exercise over local business, and when and where Congress leads State legislatures are prone to follow. It is to be expected, therefore, that railroad rate-making by the National Government within its sphere will be supplemented by railroad rate-making by the several States within their several spheres.

The situation to be anticipated, then, is that railroads, private properties and representing private investments aggregating billions of dollars, will find themselves controlled in the vital matter of their charges, not by their private owners, but by two public Boards—one representative of local interests and the other of national interests, and both antagonistic to the interests of the private owners concerned. The two Boards will aim at the lowest possible rates, each in behalf of the particular business under its charge, and will therefore be in constant rivalry with each other in the endeavor to extort from the carrier the best service at the smallest cost. Under these conditions anything like skilful, just, reasonable or stable rate-making becomes impossible. A situation is created intolerable alike to the carriers and to the public, and the sure outcome—unless the whole scheme of Government rate-making be abandoned—is Government ownership.

Government ownership of all railroads is obviously the goal toward which some of the Government rate-makers are striving, while others, if not welcoming it and not working for it, profess not to fear it, and claim that it would at all events be an improvement upon the present status. Both point to existing instances of Government ownership of railroads—the one claiming that the results to the public are distinctly favorable, the other that they are at least not as detrimental as is sometimes

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declared. But when Government ownership of the railroads of the country is seriously considered, our dual political system is at once seen to present problems of the gravest character. The few and comparatively unimportant railroads that are wholly intra-State may be properly ignored. Every railroad of consequence is engaged in both kinds of transportation—in transportation that begins and ends in a single State, and in transportation that passes beyond State lines. Hence, if Government ownership of railroads be regarded as the inevitable sequence of Government rate-making—the first question is, Which Government is it that is to own the railroads, the State or the United States? Manifestly, it must be one or the other, since any joint ownership is both legally and practically impossible.

The claim and answer will no doubt be that the owner must be the United States; that, though the State is as a rule sovereign within State lines, yet the Constitution and laws of the United States are paramount; that under the commerce clause of the Constitution the United States has the power to acquire and operate railroads engaged in national transportation; and that the full and beneficial exercise of this power will not be prevented, because, in order to own and operate such railroads for national business, it is necessary for the United States to also operate them for intra-State business.

Thus, Government ownership being an inevitable sequence of Government rate-making, and Government ownership and operation of State railroads being an inevitable sequence of national ownership and operation of national railroads, the question at once presents itself whether the national Constitution authorizes such an extension of its functions by the National Government.

The significance and importance of the inquiry are apparent if we remember that the railroad is only one species of highway, and that what is true of railroads must be true of ordinary highways. The jurisdiction of the National Government must be the same in both cases. If it is competent for the National Government under the commerce clause to own and operate all the great railroads of the country, it must be also competent for it to own or control and operate all the great highways of the country.

Is it by any possibility true that the National Government has been granted any such powers—that as respects every road or

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street in the country which is a link in interstate communication the National Government may at its option take complete possession and control, may direct the mode of its construction, its grades, the sort of vehicles by which it may be used—may, in short, assume its entire management and operation in all the most minute details? Nothing could be more revolutionary in practice—nothing more contradictory of the views customarily held. It is necessary to consider most carefully, therefore, whether the powers in question are actually conferred on the National Government—it being conceded, as it must be, that the power can be deduced, if at all, only from the commerce clause of the Constitution.

(1) It is settled that the United States has no powers except those which are expressly granted to it and which include such minor and subordinate powers as are reasonably essential to the full and beneficial exercise and enjoyment of the grant.

(2) The power to regulate national commerce is defined by Chief-Justice Marshall as the power "to prescribe the rule by which commerce is to be governed" (9 Wheat., pp. 189, 194) on the part of all persons subject to the authority of the National Government. It authorizes the United States to formulate such a rule for others, it does not authorize the United States to carry on such commerce itself. If the United States, for example, were to assume to engage in the business of importing teas, or in the business of raising and exporting grain, or in any other branch of commerce between the States or with foreign countries, its right so to do would at once be challenged and probably with entire success. The United States is a government, not a private business corporation, and is endowed with certain political powers to be used for certain political ends. From trade and commerce proper, it is excluded by the very law of its being.

(3) But transportation is one branch of commerce, as the buying and selling of products is another. Both may be regulated by the National Government. but neither carried on by it.

(4) It is true that opinions by Justices of the Supreme Court of the United States have in some instances contained expressions to the effect that, by virtue of the power to regulate commerce, interstate highways may be constructed and maintained by the National Government. See, for example, California *vs.* Pacific R. Co. (127 U. S., 1, p. 39). Such expressions must,



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however, it is believed, be regarded as *obiter dicta,* and certainly do not sustain the proposition that it is competent for the National Government, under its power to regulate commerce, to undertake and carry on the business of interstate transportation. Such *dicta,* indeed, are quite irreconcilable with the language of the Court in the comparatively recent case of Louisv. & Nashv. R. Co., *vs.* Kentucky (161 U. S., 677), in which it was contended that the right of a state to inhibit the consolidation of competing railroads was an interference with the power of Congress over interstate commerce. The Court said:

"In the division of authority with respect to interstate railways, Congress reserves to itself the superior right to control their commerce and forbid interference therewith; while to the States remains the power to create and to regulate the instruments of such commerce, so far as necessary to the conservation of the public interests."

This distinction between the power of the National Government to regulate the movements of interstate commerce and its power to own and operate the instrumentalities of interstate commerce is, it is believed, sound in principle and is not in conflict with any adjudication of the national tribunal of last resort.

(5) It was once suggested by a Massachusetts Railroad Commission that the Commonwealth might acquire and operate one of its principal railroads for the purpose of thereby regulating the operation of other railroads in respect of their charges and of their other public duties.

(6) But Massachusetts—and the same is probably true of every other State of the nation — is unfettered by the organic limitations which restrict the functions of the United States. Further, even if the commerce clause might be so stretched as to justify the acquisition and operation of one or several railroads for purely regulative purposes, the United States would still be without constitutional authority to own and operate all the railroads of the country.

(7) But if, for the reasons above given, the United States is constitutionally incapable of carrying on the railroad business and of acquiring for that purpose the railroads of the country, it would seem to follow that it is also constitutionally incapable of prescribing their charges for services.

*(a)* It is an entirely well-settled doctrine of our national constitutional law that a constitutional limitation cannot be broken

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down or circumvented by the form in which a thing is done or attempted—that the judiciary will look through the form to the substance, and will invalidate any legislative or executive measure which in its substance is a breach of the constitutional prohibition. Thus, in the Income Tax cases, it was held that a tax upon the rents of real estate was a tax upon the real estate itself; that a tax upon the income of personalty was a tax upon the personalty itself; and that a tax upon income generally was a tax upon all the property of whatever nature from which the income was derived.*

Other illustrations of the principle are given by the Court in the majority opinion in the Income Tax cases. Thus, to tax an importer's occupation is to tax the imports, and to tax the sale of an imported article is to tax the article itself;† to tax the income of United States securities is to tax the securities themselves;‡ to tax the income of an office is to tax the office;§ to tax a bill of lading is to tax the merchandise represented;‖ to tax interest on a bond is to tax the bond, not the obligor;¶ to tax an auctioneer's gross sales is to tax the articles sold;** to tax income from interstate commerce is to tax the commerce itself.††

*(b)* By parity of reasoning—because "The substance and not the shadow determines the validity of the exercise of (the) power" (155 U. S., p. 698); because "What, in fact, is property, but a fiction, without the beneficial use of it?" (158 U. S., p. 626)—a political organism which is not legally competent to own and carry on the business of national transportation is likewise legally incompetent to prescribe the charges for such transportation to the private parties who do own and carry it on.

The rate-making power—the power to determine the charges for transportation—is the very essence of the ownership of the transportation business. Upon the exercise of this power depend the profits to get which the business is undertaken, and except for which it would not be undertaken at all. In this respect the transportation business is like any other, and the severance of the ownership of a business from the power to determine the

* See 157 U. S., p. 581; 158 U. S., p. 618. † Brown *vs.* Maryland, 12 Wheat., 419, 444. ‡ Weston *vs.* Charleston, 2 Pet., 449. § Dobbins *vs.* Commissioners, 16 Pet., 435. ‖ Almy *vs.* California, 24 How., 169. ¶ Railroad Co. *vs.* Jackson, 7 Wall., 262. ** Cook *vs.* Pennsylvania, 97 U. S., 566. †† 122 U. S., 326; 127 U. S., 640.

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returns from it, being impracticable in point of fact, is to be deemed also impossible in point of law.

If it be urged that, as Congress is subject to the Constitution of the United States, any national rate-making for carriers cannot be confiscatory, the answer is plain. Rate-making for railroads is a from-day-to-day affair. Their rates must vary with the varying conditions of business, which conditions are subject to rapid and wide fluctuations and may make rates which are reasonable to-day wholly unreasonable to-morrow. It is entirely conceivable that rates reported by a committee to one or both Houses of Congress and reasonable when so reported may become unreasonable by the time that they are acted upon by one or both Houses, or, if then reasonable, may be found unreasonable when a bill prescribing such rates is presented to the President for his signature.

Further, whether Government rates as prescribed are or are not confiscatory and consequently illegal is a judicial question to be determined only by the judiciary. But rates reasonable when prescribed by the legislature may be found unreasonable when examined by the courts, or, if unreasonable when enacted, may be entirely reasonable by the time the courts are called upon to investigate them. Yet in either or any event the courts are limited to action upon rates already established or attempted to be, and are without power to decree what shall be the rates for the future.

Further, as only the courts after hearing the parties can determine whether legislative rates are reasonable or unreasonable, if such rates are made effective upon enactment and the carrier adopts them and they are afterwards adjudged unreasonable, the result is that property of the carrier is in effect taken from the carrier to bestow upon the shipper; if such legislative rates made effective upon enactment are not adopted by the carrier and are afterwards adjudged reasonable, the result is that property of the shipper is in effect taken from him to bestow upon the carrier. The same confiscatory result follows in each case, because in the one the carrier, and in the other the shipper, is without any legal redress for the wrong suffered.

These considerations would seem to show the practical impossibility of separating the ownership of the transportation business from the power to fix the carrier's charges—of private persons

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being the proprietors of the business while government assumes and exercises the right to dictate their charges and their returns from the business.

And, as in deciding the question of the violation of a constitutional limitation the substance of things and not the shadow is taken into account, the organic inability of the National Government to own and run the national railroads of the country includes the inability to prescribe their charges the right to fix which is an inseparable constituent of ownership.

Ours is a government in both State and nation by political parties, and to political rate-making for railroads—rate-making by politicians animated by partisan motives and working for partisan ends—the objections of an economic and business character and on the score of public policy generally are as obvious as they should prove insuperable. The purpose of the present paper is to point out that, beside such objections, railroad rate-making by the National Government presents legal and constitutional difficulties of the most serious character. It raises issues which concern the division of power between the several States and the United States; which have not been fully and finally passed upon by the national Supreme Court; and which, if submitted to that tribunal half or even a quarter of a century ago, would in all human probability have been determined adversely to the jurisdiction of the General Government.

RICHARD OLNEY.

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# LYNCH LAW: ITS CAUSES AND REMEDY.

BY HIS EMINENCE, CARDINAL GIBBONS.

"WHOSOEVER sheddeth man's blood, his blood shall be shed." It is a law of all Christian and civilized nations, based on the Mosaic ordinance, that all deliberate murderers and other atrocious criminals shall expiate their transgressions by the death penalty. The blood of the innocent victim, like the voice of the blood of Abel, calleth to heaven for vengeance. (Gen. iv.)

But private individuals, how exalted soever may be their station and influence in the community, or how grievous soever the offence, cannot constitute themselves the agents for punishing the guilty. A claim of this kind would destroy or imperil security of life, and lead to indiscriminate bloodshed.

The prerogative of exacting life for life, and blood for blood, is vested exclusively in the public authorities, who are charged with maintaining the peace and good order of the commonwealth. The power of the civil functionaries and the source of their authority are thus stated by the Apostle of the Gentiles: "The civil magistrate beareth not the sword in vain. For he is God's minister, an avenger to execute wrath upon him that doth evil." He acts in the capacity of the representative and delegate of God, Who has the power of life and death over all His creatures.

But even civil rulers are forbidden to make an arbitrary use of their prerogatives, at least in times of peace. Their powers are strictly defined. They can pronounce sentence of death only after a judicial verdict has been rendered. The Constitution of the United States expressly provides that no man may be condemned to death till declared guilty after a judicial trial.

The Fifth Amendment to the Constitution declares that "no person shall be deprived of life, liberty or property, without due process of law." This beneficent clause is most comprehensive

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in its scope, for it guarantees a fair trial to every culprit, no matter how atrocious his crime, or humble his situation in life.

All executions by Lynch Law are therefore a direct and flagrant violation of the Constitution. Every lover of his country's fair name must feel a sense of shame and sorrow when he is forced to admit that the murder of criminals by popular violence is of frequent and almost weekly occurrence in the United States. Nor are these acts of vengeance confined to one particular section of the land.

According to a report by a responsible writer, whose statements have not been questioned, there have been two thousand eight hundred and seventy-five lynchings from 1885 to 1903, inclusive; and there are but five States in the Union in which these illegal acts did not occur. The States exempted from the crime of lynching are Massachusetts, New Hampshire, Vermont, Rhode Island and Utah.

Lynching is a blot on our American civilization. It lowers our civic and moral standard in the estimation of foreign nations; it is a standing insult and menace to the majesty of the law of the land; it usurps the sword of authority from the constituted powers, and places it in the hands of a reckless and irresponsible mob.

It arouses a bloodthirsty spirit in man; it inflames the savage element in our nature. You might as well attempt to chain the lightning, and hush the thunderbolt of heaven, as to repress a crowd, once their fury is excited to wreak vengeance on an alleged malefactor.

I admit that there are exceptional times and circumstances, when summary executions may be tolerated and condoned; when, for instance, a territory is suddenly occupied by a mixed and heterogeneous population, and is in a formative state; when the civil law and the usual machinery and appliances of a stable government are not yet established. On occasions like this, the recognized leaders of the people may punish notorious criminals in the interests of social order.

Upwards of fifty years ago such a state of things existed in California, when gold was first discovered in that region, and when adventurers flocked thither from various parts of the globe.

A Vigilance Committee was organized to punish outlaws without due forms of law. But it is manifest that this method of

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chastising offenders cannot be tolerated in a State where the courts of justice are in free operation.

Lynchings, and all arbitrary deeds of murder by irresponsible persons without legal proceedings, have been the fruitful source of feuds and sanguinary conflicts in some sections of our country. We are all familiar with the bloody struggles carried on for a generation between two families on the borders of Kentucky and West Virginia. The partisans of one clan began by murdering a member of the other to avenge some grievance. The aggrieved family retaliated by killing one or more of the other tribe; and they in turn made reprisals by the massacre of some of their adversaries. And so the contest has been kept up almost to the present day, until both clans have been well-nigh exterminated.

How much bloodshed and violence would have been spared if the contending parties had recourse to the established tribunals, or had observed the law of forgiveness of injuries inculcated by the Founder of the Christian religion!

What aggravates the crime of Lynch Law is the circumstance that not unfrequently it sentences to death an innocent person, while the guilty party escapes. Cases of mistaken identity and ungrounded suspicion are liable to occur when we consider the excited frame of mind of the unhappy victim of violence and lust, and the eagerness of an outraged community to avenge an atrocious and brutal crime. In May, 1902, the wife of a station-master was found murdered in a small town in South Carolina. Three negroes were suspected of the crime. They were hanged to trees and their bodies were riddled with bullets. Some time afterward, the husband of the murdered woman, overcome by remorse, confessed on his death-bed in the presence of his physician and several witnesses that he was the murderer, and that the accused negroes were absolutely innocent of the deed.

If it is a grave miscarriage of justice to allow the guilty to go unpunished, it is far more criminal to deprive of life an unoffending man. The legalized murder of a guiltless individual is an act of violence to Justice herself. Better that ten guilty men should escape than that one man should unjustly suffer.

Unfortunately, also, the lynching of one individual is sometimes attended by the accidental and promiscuous slaying or wounding of bystanders in the conflict which arises between the mob and the officers of the law.

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If Lynch Law were substituted for the Law of the Land, no citizen would be secure from violence or death. The leading men of the community, if not restrained by conscience, would wield an influence like that which was swayed by the Barons of the Middle Ages, who could assassinate with impunity every harmless commoner that stood in the way of their lawless ambition or lascivious passions. They could easily trump up charges against the object of their hatred or malice, and suborn a hired band of retainers to avenge a fancied crime.

Another deplorable result of lynching is that public sympathy is sometimes withdrawn from the innocent victim of lust and murder, and is transferred for the time being to the brute who outraged and killed her. Her defenceless condition, her agonies and cries for help, her vain entreaties, her dishonor worse than death, culminating often in torture and murder in order to cover the crime,—all this horrible picture fades from view and is almost forgotten, while the iniquity of the human fiend is condoned or palliated on account of the lawless manner in which his crime was expiated. He often becomes the hero of the hour, and is regarded by some even as a martyr. And, while the malefactor's crime is almost lost sight of, and he becomes the object of morbid pity, popular denunciation falls on the heads of those who participated in his summary execution.

Had the wretch expiated his offence by the ordinary process of the civil courts, his trial, conviction and execution, attended with all the solemnity of judicial proceedings, would have appeased the righteous indignation of the community, would have vindicated the majesty of the law, and would have served as a terror and salutary warning to evil-doers.

If, indeed, the illegal and violent infliction of the death penalty on criminals had a deterrent effect on other evil-disposed persons, and acted as a warning to them, that circumstance, while not justifying Lynch Law, might at least offer some excuse or palliation for its exercise. But experience shows that it rather increases instead of diminishing the calendar of crime. Far from terrorizing the colored race who are the usual sufferers from hasty executions, it inflames them with indignation, and incites them to perpetrate deeds of violence on the weaker sex as much from a spirit of revenge, and from a triumph in the humiliation of their victims, as from a desire to gratify their animal passions.

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Let us now examine into the principal grounds of excuse for the exercise of Lynch Law, and suggest a remedy for this social evil.

One of the causes of hasty and violent executions without the forms of law is the needless and often irritating delay in bringing a notorious criminal to the bar of justice, and the infliction of punishment inadequate to the enormity of the offence.

An infamous negro, named George White, violated and then butchered almost beyond recognition a young lady in Delaware. A prompt trial of the self-accused malefactor was reasonably expected to appease the public, exasperated as they were by the horrible outrage. But they were grievously disappointed by the announcement that the culprit would not be tried for three months, and the result was a summary execution attended with the most revolting circumstances.

It appears that this same White had been twice before convicted for rape in Pennsylvania. If he had received a due measure of penalty for his former transgressions, he would not have been let loose to prey like a wolf on other folds; and, if he had been accorded a speedy trial in Delaware, the community would have been spared the awful scenes which occurred when he was burned at the stake.

The difficulty of procuring a sentence of conviction against the accused after he is tried, and the frequency with which noted criminals are known to escape the meshes of the law, especially in jury trials, have created in the public mind a distrust of our criminal jurisprudence, and offer an incentive and temptation to have recourse to the wild justice of revenge. In 1900, the Mafia, a lawless secret society of Sicilian origin, spread terror among the inhabitants of New Orleans by their frequent deeds of bloodshed. The members of the society considered it dishonorable to seek redress by appealing to the established courts of justice, but always avenged a wrong by secret murder. They assassinated the chief of police at his own door. Nine members of this infamous band were arrested and tried for the murder of the brave and popular guardian of the law. They were all acquitted.

Some of the leading citizens, incensed at the miscarriage of justice, shot down these nine members of the Mafia; and, how much soever we may reprobate the drastic remedies applied by the citizens, it is gratifying to say that, since these violent meas-

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ures were adopted, the hydra-headed monster has never again lifted its head in the Crescent City.

Yet another crying evil and incentive to lynching is the wide interval that so often interposes between a criminal's conviction and the execution of the sentence, and the defeat of justice by needless procrastination. Human life is indeed precious and sacred, but the effort to guard it has gone beyond reasonable bounds. It is blessed to be merciful, but mercy should not be exercised at the expense of justice and social order. Misplaced clemency often works infinite harm to the community.

Of late years, the difficulty of carrying out the judgment of the court (in murder trials especially) has greatly increased from the widened application of pleas in bar,—notably that of insanity. When a conviction has been reached, innumerable obstacles generally stay the execution. The many grounds of exception allowed to counsel, the appeals from one court to another of higher jurisdiction, involving an enormous expense to the commonwealth, the long periods of time intervening between the terms of the lower and higher courts, the impossibility of recalling the original witnesses by reason of their death or removal to distant parts of the country, the apathy or fading interest of the friends of the prosecution, the untiring efforts of the advocates and friends of the accused, the facility with which signatures for pardon are obtained, with the final application for mercy to the Governor,—all these circumstances have combined to throw around the transgressor an extravagant protective system, and have gone far to rob jury trials of their substance and efficacy.

When the crime of the accused has been manifestly proved, and no extenuating circumstances can be advanced, the lawyers for the defence have often recourse to the plea of insanity as a last resource. Medical experts are always available to testify to the moral irresponsibility of the culprit, bewildering the jury by their technical phrases. This subterfuge not unfrequently succeeds in defeating the ends of justice, though the sanity of the guilty party had never before been called in question.

I can recall a recent instance in which a man was convicted of a heinous crime. The insanity dodge was successfully availed of. He was committed to an asylum, from which he soon afterward escaped with the aid of his relatives, and no effort has since been made to rearrest him at his home.

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A sovereign remedy for the suppression of lynching and for the restoration of the law's supremacy is found in a speedy trial and conviction of the accused, if he is found guilty, followed by the rigorous execution of the sentence.

It would be a great blessing for society if our lawmakers were to revise the criminal code now in force, and to sweep away, or at least considerably diminish, the barriers which interpose between the crime and its punishment. A prompt execution of the verdict would strike terror into evil-doers, and satisfy the public conscience.

But it is far more merciful to stop crime than to punish it by legislation. It is better to remove a cause than to repair its evil effects. From data before me, I infer that about seventy per cent. of those who perished by lynching in the Southern States between 1885 and 1903 belonged to the colored population. If the deep-rooted antipathy between the white and the black races were removed, or assuaged, these violent executions would be considerably diminished.

This blessed result can be accomplished only by submission to the teachings of the Gospel, which proclaims the equality of all men before God, with Whom "there is neither Gentile nor Jew, circumcision nor uncircumcision, Barbarian nor Scythian, bond nor free, but Christ is all in all."

If the American people were religiously impressed with the Gospel truth that we are all, without distinction of color, children of the same God, brothers of the same Christ, that we were all redeemed by His precious blood, that we are all descended from the same aboriginal parents, that we were created for the same eternal destiny, that Christ is our "Peacemaker, breaking down the wall of partition" which divides nation from nation, tribe from tribe, so that we might be all one family guided by the supreme law of charity,—if we were all controlled by these principles, then, indeed, the reign of vengeance would exercise less sway among us.

In the two lower counties of Maryland, the white and the black populations are nearly equally divided, and the great majority of both races profess the Catholic religion. I have had frequent occasions to visit these counties in the exercise of the sacred ministry.

Before divine service began, I have been delighted to observe

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the whites and the blacks assembled together in the church grounds, and engaged in friendly and familiar intercourse. Then they repaired to the church, worshipping under the same roof, kneeling before the same altar, receiving the Sacrament at the same railing, and listening to the words of the same Gospel.

This equal participation in spiritual gifts and privileges has fostered the feeling of good-will and benevolence, which no human legislation could accomplish. I never witnessed anywhere else the white race so kind and considerate to the colored, nor the colored race so respectful and deferential to the white; for there was no attempt in these weekly gatherings to level the existing social distinctions. As far as my memory serves me, the records of these two counties have never been stained by a single instance of an outrage and a lynching.

J. CARD. GIBBONS.

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# AN ANGLO-FRENCH-AMERICAN UNDERSTANDING.

BY ANDREW CARNEGIE.

RANKING in importance with the appearance of Japan as one of the great World Powers, stands the recent treaty between Britain and France, by which all their differences, which so long have kept these two neighboring nations apart, are "in the deep bosom of the ocean buried."

To the monarch of England, the peace-making King, the credit is given, first, for feeling in his heart—for he has always liked France—that the two peoples should be friends, and, secondly, for suggesting the policy of bringing this about. In his broad-minded Prime Minister, Balfour, and in his able Secretary of Foreign Affairs, Lansdowne, he found sympathetic colleagues. The able French Minister of Foreign Affairs, Delcassé, and the Cabinet, no less indispensable, were also zealous for peace, and behind all this cordial support there lay the supreme voice of the people of both countries.

Centuries of conflict, invasions of each other's lands, and years of war at intervals, had made these neighbors historically inveterate foes of each other. When war was talked of, France arose in the memories of Britain, and "*perfide Albion*" in those of France.

In his young days in Scotland, the writer with other boys played soldier and built fortifications to resist the French invaders. The shade of Napoleon was still our scarecrow.

Since those days, France and Britain, weaving the web of destiny, each developing in its own line, have awakened to find that, so far from colliding, they have struck out different paths, each finding its own mission, devotion to which has not only been the best policy but that most congenial to the national genius, and

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hence the most fruitful. Long did these two peoples contend for America with varying fortunes, France grasping it one day, Britain victorious the next. Long the issue trembled in the balance; the scales in time inclined to Britain, but later came France again to the front, extending her aid to the Republic, and America was Britain's no more. France lost America, so did Britain; and America found herself.

The struggle against Napoleon, in which Britain played so conspicuous a part, left the two peoples the bitterest of foes; time was needed to blunt the edge of mutual hatred.

Their cooperation in the Crimea, later in Egypt, and more recently in China, did much to soften asperities for a time; but the last act of the drama, ending in the Egyptian occupation by Britain alone, opened once more the deep and festering wound, which the wrongful and disastrous Boer War did not tend to heal. Years passed, and France became measurably reconciled upon both questions; the times were auspicious for settling all outstanding questions; the hour and the men were at hand. It was clearly seen that in the progress of years each had developed its own destiny. France had not proved a great colonizing country; such is not the genius of her people. "Sunny France" is far too attractive; her sons cannot be induced to leave her. There is no place like France to the Frenchman, and to many others as well. In this he shows his proverbial prudence and good sense. Few who know France and her colonies will be found differing from him.

The national genius of France is artistic. France has in this a surer monopoly than even America has of cotton. With extreme difficulty, and only after long years of steady application, if at all, will either be dispossessed. It is possible, though most improbable, that cotton may hereafter be produced somewhere as cheaply and as well as in America; but where and how is to be produced another artistic people equal to the French?

France is the world's shop. No silks, no linens, no statuary, no paintings, no wine, and none of the thousand and one articles of *bijouterie* and *vertu* like hers! For exquisite design and workmanship, as in many realms of art, she has the world at her feet.

Britain, on the other hand, and America also, have displayed aptitudes for producing the coarser articles needed by the world,

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iron and steel, coal and ships, substantial cloths, and other things to meet the demands of the masses. With them, wear being the first consideration, art takes second place.

Britain, small in home territory, stands supreme as a colonizer. She has proved her genius for this. Justly is she hailed as the teeming mother of nations already born, and of others yet to be. This little Island, with Ireland alongside, is credited with an Empire comprising one-fourth of the population of the world. True, her ownership of this vast territory is nominal, not real. Her self-governing Colonies are independent nations, only owning allegiance to the same Crown; India is a conquered land, held in subjection by eighty thousand British troops possessing all the artillery. But, minimize the Empire as one may—as some British politicians do these days—as an affair of shreds and patches, which can be made a real Empire only by Preferential Tariffs, it remains the most remarkable achievement of which any race can boast. No people have shown more than a spark of the genius the Briton has for colonial development and rule over distant dependencies. Whether, upon the whole, backward races will not make real and enduring progress more steadily in the art of self-government, and in general education, if left to themselves, need not be here discussed.

In another element Britain also reigns supreme. Britannia still "rules the waves." More ship tonnage than belongs to all the rest of the world combined is hers. The contrast between the two Powers is complete. Britain takes to the sea, which surrounds her "as a moat defensive," and possesses the most of the world's shipping. France prefers the land, with her ten millions of landowners living on their own estates. Her petite culture is the marvel of the world. Britain colonizes lands abroad; France makes a garden of her land at home. One produces prodigious quantities of things in common use of average grade; the other supplies the world with the thousand and one articles of exquisite design and workmanship nowhere equalled. The French have the artistic genius, the British the practical. Thus their missions are complementary, not competitive. There is not only room enough for both in the world, they do not collide, they occupy different fields. Each can, and now does, heartily wish the other the largest and most bountiful measure of success. The continued material advance of Britain insures France a

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larger customer for her products; and, conversely, the growth of France benefits Britain.

Therefore, when the note of peace was recently struck between the two stern foes of the past, it found many vibratory chords. The Egyptian was, no doubt, found the most troublesome of all questions to adjust, and that this was so successfully accomplished was encouraging. France agreed that Britain should manage in Egypt; and, in return, Britain agreed that France should manage in Morocco. All other points were easily and satisfactorily settled; and the two hitherto antagonistic Powers awoke to the fact that, not only had all their antagonisms melted into air, leaving not a trace behind, but in their place had arisen appreciation and regard, founded upon elements in each other's character and aims which give assurance of enduring friendship. Happy day for both these old lands, which have played such great parts in the past and given so much of value to mankind, even when estranged, and which now, united, give promise of harvests of beneficent action, not for themselves only, but for the world at large! The union of France and Britain counts for much the world over from this point of view.

America, the child of one of the two, and a fellow Republic through the aid of the other, bears the most intimate relations to both. It goes without saying that the treaty between France and Britain, which drew them so closely together, did not pass unnoticed in the Republic. On the contrary, it set all political students thinking. To no nation except Britain is the American Republic so closely bound by ties of lasting gratitude as to her sister Republic. Under no conceivable conditions can we imagine the two nations at war with each other. The shades of Washington and Lafayette would haunt the man who entertained the mere idea. Come what may, all differences will be peacefully settled, if any arise,—which is to assume that that might happen which has never happened yet.

France has recently separated Church and State, and now stands with her sister Republic as regards religious sects,—the friend and protector of all, the enemy of none. The bonds, strong before, have been strengthened thereby.

America owes so much to France that there is not a request France is ever likely to make that America would not deem it her duty to meet. Such the ties that bind the two great Republics;



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and we may rest assured that France and America are never to forget the past that renders war between them unthinkable.

We have spoken of the different geniuses and careers of France and Britain. America is not one nation like these, but forty-five nations combined under one flag with free exchange. Each is sovereign, except as it has deputed certain powers to a general council of all the States meeting at Washington. In area, America is larger than Europe. It has all climates. It grows sugar in the south; and, as we pass northward, the pineapple belt succeeds and is followed by the orange belt. Then comes the cotton belt, so large that all the cotton produced in the world could be grown in half of one of the States. The corn (maize) belt follows; then, finally, the wheat, oats and barley belt of the North. Its mineral wealth is beyond computation. There can be no question that, as Green says, the home of the English-speaking race is to be in America. It is difficult to set limits to the final position of the vast horde, composed of ambitious and thrifty emigrants from European lands, all rapidly assimilated in the second generation through the universal free-school system,—all English speakers they must be, and sure to stand for the fundamental principles which to-day rule France, Britain and America.

The national genius of America, so far, has found scope in clearing the wilderness, building homes, cultivating the soil, pushing further and further west, north and south; building railways, of which the land has nearly as many miles as the rest of the civilized world, canals, roads, and telegraphs; damming and deepening thousands of miles of rivers, making them broad canals. Following this, the development of its mineral resources and of manufactures has been rapidly pushed. Such has been America's task.

The population, now about eighty-three millions, can be increased certainly to that of Europe. The capacity of the Republic to maintain even a larger population up to the European standard is clear. Her rapidly growing home market will continue largely to absorb her manufactures, only four per cent. of which now goes abroad.

The people are ingenious and inventive. To improve an existing machine, or mode of production or of administration, seems the special province of the American. Intense energy is his,

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largely owing to the stimulating quality of the climate. Great intelligence, a quick mind, push, sobriety and a restless ambition to get ahead are qualities no one can deny him. There also comes the influence of republican institutions, a great force. The American is taught from the cradle that neither rank nor wealth amounts to much. As for the first, his rank is equal to the highest. As for wealth, he will soon make that all right; if not, it does not matter much, as he will make a competence if he can work; he saves his surplus earnings, and competence means independence.

In all national pursuits, the coming American will resemble his progenitor, the Briton; for the American type is British with a difference. He will not within measurable time, if ever, compete with artistic France; nor will his competition with the Briton in the finest grade of textiles and manufactures be keen for a long time to come. His province at present is to manufacture common qualities for the masses.

Politically, his laws and institutions will remain modelled upon the present form, to which Britain is drawing closer as she progresses toward pure democracy. What is found best in one land will be speedily adopted by the other. Externally, America may be expected to resist the colonizing temptation, and look closely to internal administration and the development of her continent. She will, therefore, be no competitor in the race for territorial aggrandizement.

While France and Britain have become reconciled, another great reconciliation has recently taken place between Britain and America. The relations now happily existing between them are to be credited to Lord Salisbury's administration, of which the present Prime Minister and Mr. Chamberlain were leading members. In the case of the Spanish-American War, Britain refused to take action with other Powers against America. It remained strictly neutral. This action impressed the American people as no other act of the Old-Home land had done. President McKinley to his latest day never, upon proper occasion, omitted to speak in highest terms of praise of, and to express his gratitude to, Britain. In this the late lamented Colonel Hay, one of the greatest Secretaries of State, was equally pronounced. In this they did not differ from the leaders and masses of both parties. To-day the American people realize that blood is very

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much thicker than water; that their principles of civil and religious liberty were chiefly derived from, and are held in common with, Britain; and that a large portion of the British people, then unrepresented in Parliament, saw in the American struggle for independence an agency for securing their own political rights.

The Liberal Party in Britain and the masses of the people have been friendly to America from the first. Even during the War of the Revolution, their sympathies were with the American revolters. London expressed this feeling, as did other cities. Chatham and Burke and other leaders denounced the policy of suppression. It was the same in the Civil War. Bright, Cobden and other Liberal leaders favored the American Government, as did the masses. The patrician element, on the other hand, has not hitherto been cordial to America; but, as before stated, the latest and most telling proof of friendship for America is to be credited to it. This action fairly captured the heart of the American people, which is now with Britain to a degree never before since the Revolution. With all parties in America, as in Britain, it may now be said, the key-note of their policy is to draw closer the bonds between the branches of their own English-speaking race, and also with France.

Here then we have a trio of the leading nations of the world, determined to preserve lasting peace among themselves; built upon the surest of all foundations—different careers, each best adapted to its conditions and national genius; with similar institutions based upon the same formula,—"Government of the people, for the people and by the people,"—the creed and the whole creed of republicanism: two uncrowned Republics where any man's privilege is every man's right, one crowned Republic in which the rule of the people is as clearly the supreme law as in the uncrowned Republics. The King, sitting by virtue of the vote of Parliament and subject to it, holds one of the few perfect titles in Europe with which no Republican can quarrel.

It is, therefore, of three Republics we are treating,—another bond of supreme importance, as shielding them from the ambitions of hereditary dynasties and from the autocratic rule of the few, and leading them more directly to peaceful and industrial development.

From every point of view, no two of the other great Powers

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have so much in common or are so free from antagonistic or rival aims as Britain, France and America. No other three nations are so entirely complementary in aims and destiny.

Possessed of such immense power, moral and material, it is no wayward conjecture that events may arise, from time to time, in world affairs upon which their uniform action will exert paramount influence. If the world once saw clearly, for instance, that these three free nations stood for peace through arbitration instead of war, other nations would be attracted to their side from time to time until their appeal became too powerful to be disregarded. The cooperation of France, Britain and America, a unit for all that tells for peace among nations and for higher civilization, is not unlikely to be one of the distinctive notes in the world politics of the Twentieth Century. Would we could flatter ourselves that there would be added to this peaceful union, some day soon, the Teutonic Power, kindred with Britain and America—that we might feel that war between Germany and France, America, or Britain, were as unthinkable as it has become between the three latter Powers. Militarism would then have received its death-blow, and Europe would soon be as free from its huge armies as America.

Let us indulge this fascinating hope, believing, as we may, that the extraordinary man who guides the destinies of Germany may yet reveal himself as intensely the friend of peace as either of the heads of the triarchy. Meanwhile let us rejoice that between France, Britain and America peace in her white robes sits enthroned, never again to be displaced. The world does move upward.

ANDREW CARNEGIE.

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# HOW TO EXTEND COMMERCE IN THE FAR EAST.

BY JEREMIAH W. JENKS, PROFESSOR OF POLITICAL ECONOMY AND POLITICS IN CORNELL UNIVERSITY.

In discussing the extension of commerce in the Far East, my purpose is to comment upon some principles of business, well known, to be sure, but often overlooked in current discussion, and to speak of some conditions to be met in the Orient before noting primarily what measures must be adopted. It must be kept in mind that the work of the economist is simply to state the principles of actual business. There is no true economic science that is not based upon actual business; and there can be no sensible business plans that do not rest upon study of business conditions in the special case under consideration.

It will be assumed also as fundamental that business is a complicated subject, requiring intelligence and training to understand it thoroughly and ability, often of a very high order, to conduct it successfully on any large scale. The needed training must be gained in good part in actual touch with business itself; but the training in a business house may, doubtless, be shortened, and likewise made broader and better suited to modern operations on a world-wide scale, by preliminary study in special schools and colleges adapted to that end.

*Nature of Commerce.*—The subject of commerce includes, of course, retail and wholesale trade on the one hand, and local, national, and foreign trade on the other. Each of these divisions has its own problems and its own methods, and to a considerable extent the training for each must be special. Naturally some fundamental principles, those of accounting, for example, are similar in all. It is necessary in every case that the business be so analyzed and understood that the reckoning of costs and

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the determination of profits and losses can be made clear; and in many other ways the lines of business will be found similar, whatever their scope. On the other hand, the methods of purchase and sale of the retailer of necessity differ decidedly from those of the wholesaler. His methods of advertising, his systems of credit, his percentages of profit, his knowledge of markets, his whole range of information and activity must be vastly different. Likewise, the person who buys and sells locally, whose transportation of goods is limited by the delivery wagon, has problems quite different from those of the man whose business is largely a mail-order or express business if he is a retailer, or whose range of sales is national if he is a wholesaler. Still new and entirely different problems come up for the merchant whose business is international in its scope. In many instances, also, aside from the more narrow business questions, there enter into commercial transactions on a large scale questions of politics, which cannot be ignored if one's business is to be successful; and, again, the question of national politics, in the one instance, may easily broaden into one of international politics, in the other. The merchant in Chicago may find his business considerably hampered by the teamsters' strike, and may find that this question is complicated by relations which may arise with the city government, the State government or even the Federal Government; but, if his dealings are with the Far East, he may find that a shipment of machinery destined for Tientsin has been carried off to Vladivostok, as in one case which I knew, because the ship happened to carry also contraband of war for the Japanese, and the Russians captured it.

*General Training for Commerce.*—In current discussions in the press and elsewhere, many of the more fundamental principles of commerce, and the training which is requisite to enable our young men to cope with the problems which may arise in their business, have been adequately considered. It is generally conceded that, besides the principles of accounting and cost-keeping referred to, one should possess a fair knowledge of foreign exchange, a comprehensive outlook over the most important markets for the purchase and sale of leading staple products, a reasonable understanding of shipping by water and rail routes and the relative costs of different routes and classes of freights, an insight into the fundamental principles of commercial law, a

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sufficient knowledge of the languages of the countries in which one is to work, besides, of course, a detailed knowledge of the goods to be handled and the special requirements of the individual business, which can be learned only in the business itself. I may assume, therefore, that these general principles are accepted and carried into effect, and I will simply answer some further questions as to the peculiarities of commerce in the Far East which will require certain special training to be added to the general training thus outlined.

*The Problem of the Balance of Trade.*—In most of the late discussions on the trade of the United States with the Orient, there has been emphatic insistence upon the necessity of our "extending our markets into the Orient," of our finding a field in which we may "dispose of the surplus of our manufactures." We have been repeatedly assured that, if we are to become a great World Power, it is necessary that we reach out and capture these Oriental markets for our goods as far as possible in advance of our rivals. Relatively very little has been said about the possibility of our finding in the Orient opportunities for purchases which may satisfy our own needs; and I have even found persons who have been speaking and writing upon these questions somewhat embarrassed when they were asked what they proposed to accept in return for the goods which they wished to sell in the Orient. It seems to have been thoughtlessly assumed, either that we might be willing to sell to the Orient without securing a fair equivalent in return, or, what is much more likely, that the Oriental country to which we might sell would have an unlimited supply of cash with which to pay for our goods. If, however, we are continually to expand our sales, there must be a corresponding expansion in the Orient of the power of producing those goods which the West may be willing to take in exchange. To take China for an illustration. For many years in the past China has paid for a large proportion of the goods which she has imported from foreign countries by the export of silk and tea, though of late other shipments are relatively increasing. It is a fair question whether foreign countries, if they double or triple their sales to China, are going to be willing to take twice or three times as much silk and tea in exchange, at prices which will be substantially the same as those at present; or whether they will take more products of other

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kinds from China. If China has not now sufficient acceptable means of payment, will foreigners be willing to take an active part by investing capital to develop certain new industries and added wealth there, which will enable that country to supply foreign needs more readily in order to meet her increasing demands for foreign goods? We too often overlook the fundamental principle that, in the long run, a country must pay for what she buys, and that, speaking generally, she must pay for the goods which she purchases by goods which she sells.

Of course, in certain instances, if a country is a creditor country, as is England, she may purchase goods with the interest due on her bonds or stocks of a debtor country; or, if she has a great merchant marine, she may pay by the freights which foreign countries owe her citizens for transportation; or, if, as in the case of China, many of her citizens go abroad to labor, she may pay in part for the goods which she buys by the labor of her citizens working in the foreign country. In other ways also payments may be made; but, in whatever way we explain the matter as regards details, it is still clear that the citizens of a country, by their labor or by their capital, must in some way pay for the goods which that country buys.

An apparent exception to this general principle should, however, be made in the discussion of the extension of our commerce with the Far East. At the present time, China is much in need of railways, of iron bridges, of foreign machinery of various kinds. If our citizens have capital to invest in China and put that capital into the form of railway material or manufacturing establishments, it is probable that these American owners of the capital thus invested may be willing to let their capital stay in China, and to draw on that capital for use at home only the dividends on their investments. Indeed, in special cases, investors might well be willing practically to transfer their capital to China and to reinvest their profits there, making that for the time being the home of their capital, if not their own personal home. To that extent, there might be a selling of certain classes of goods to China, for which, for an indefinite period, there would be no return demanded in the form of exported goods. The pay might be taken in only a claim to wealth there. This would be probably the only exception to the above general principle.

*Our Far-Eastern Markets.*—We need also to distinguish rather

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sharply the different markets open to us in the Orient, for the conditions of trade in these markets differ greatly, and the nature of the information needed and the methods to be employed differ accordingly. It is probable that for some years to come our chief Oriental markets will be: (*a*) The Philippine Islands; (*b*) China, including Manchuria; (*c*) Japan, including Corea; (*d*) other minor countries, such as Hongkong, the Straits Settlements, the Dutch East Indies, etc.

*The Philippine Islands.*—While the Philippine Islands are in one sense part of our national territory, in another sense they are to be considered in much the same way as foreign territory, because from their location many of their problems, such as the question of foreign exchange in the payment for goods and the cost of transportation, are similar to those in connection with other countries of the Far East. On the other hand, as regards the political influences which have a bearing upon their commercial condition, the problem is mainly domestic.

The Government there is, of necessity, friendly to the Government of the United States. (It is proper, I think, under the circumstances, to speak of a "necessary friendliness.") The Government of the United States is disposed also to favor the industries of the Philippine Islands at the expense, if need be, of other foreign countries, if not of the United States itself. The Philippines, in consequence, form in certain respects, perhaps, a better field for investment of American capital than do the other countries under consideration. It is probable also that some of the products of the Philippines are better adapted at the present time for American investments than those of most other countries, and investments are the forerunners of commerce in such cases. For example, nowhere else in the world is Manila hemp produced to any noticeable extent, and up till now, in spite of the partial competition of sisal and other fibres, there has been found no real substitute for it. Under the Spanish régime, and so far under the American régime, the methods of cultivation, of transportation, of purchase and sale, and of local manufacture of the hemp are of a very primitive nature. There can be no doubt that here is a very important field for the development of American commerce through a preliminary investment of American capital. Commissioner Forbes lately wrote that we could "treble the output of hemp by giving adequate

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transportation and proper pay to the hemp-cleaners." This will, in the first instance, create a demand for American machinery and steel in the Philippine Islands; and then, later, as the hemp industry develops in importance, this increased wealth will lead to an increased demand for other American products.

The same statement may be made, with somewhat less emphasis, regarding the tobacco and sugar and cocoanut industries in the Philippines. The tobacco industry has already been developed to a considerable extent by Spanish and Filipino capital. It should become an immense industry, as should the extraction of cocoanut oil. The sugar industry, however, remains still in a decidedly primitive condition, and apparently needs for its large expansion only a somewhat more liberal policy on the part of the American Congress, in the direction of land privileges and lowered tariffs. Such added wealth would call for many more American products to pay for the exported tobaccos, copra and sugars. With proper methods of agriculture, of transportation, and especially of manufacture, in the sugar industry, there can be no doubt that it would greatly develop. Moreover, there is every reason to believe that, when the capital was once invested, the increased sugar product would be sold largely, not on the American market, as our timid advisers of Congress seem to fear, but rather on the markets of China and other countries of the East.

Still further investments in the building of railroads, of electric roads, of local steamship lines, of sawmills and in other industries of the Philippines would carry out this same principle of increasing the trade of our home country, as well as of the Philippines themselves, through the development of their wealth by American investments. They will not buy much more than they do now, until they can sell more.

*China.*—The situation in China is much the same as in the Philippines, with two or three important lines of difference. In the first place, the money of China is without any fixed standard, consisting practically, in case of larger payments, only of silver bullion to be weighed out. Each large dealer—even each traveller of means—has his own scales to weigh out his money, while almost every separate town has its own unit of weight, differing by often a considerable percentage from others. Silver bullion, too, is itself a marketable product, of which the value continually fluctuates in terms of gold. These things make the risks of busi-

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ness so much like gambling risks that trade must, of necessity, be very seriously hampered, until the Chinese Government adopts some standard uniform system.

Again, owing to a considerable degree to the ill treatment which the Chinese have received from some foreign countries, through the seizure of territory and the mistreatment of individual Chinese, as well as to the very unfriendly attitude of some of the people of the United States in connection with Chinese immigration, and the rude treatment of cultivated Chinese at times by our immigration officials, the Chinese themselves are disposed to be suspicious, and, as we have seen of late, even decidedly unfriendly toward American trade. Not only are they inclined to boycott American goods in their purchases, but late letters from China intimate that they are urging the policy of refusing to work at all for Americans, to unload American goods from ships, or to handle them in any way. The boycott movement, put into effect in Shanghai, Canton and other ports in July, is spreading to Hongkong, the Straits Settlements and other places outside of China where Chinese live in large numbers. This suggests another point in connection with the extension of foreign commerce, upon which too great emphasis cannot be placed. In order to extend business in any country, the dealings with that country, both of the Government and of private merchants, must be, first, honest and, second, courteous.

There are many lines of investment in Chinese enterprises which, besides furnishing adequate returns on capital, will in turn encourage American exports to China. Not only may railroads and mines be developed, but such industries as the immense silk industry are managed by antiquated methods, and new capital and modern methods would give them an enormous development.

For the present, it is hard to tell whether the conditions in Manchuria are to be assimilated to those in China or to those in Japan. But, in any event, the conditions must be studied carefully with reference to the needs and tastes and prejudices of the people of Manchuria, rather than to our own customs.

*Japan.*—The conditions in Japan need to be differentiated quite sharply from those in China. In the first place, their monetary system is satisfactory, so that the risk of exchange is removed. Second, the Japanese, while disposed to be friendly, are neverthe-

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less, as a nation, looking much more carefully after their own special internal interests than are the Chinese, so that it is perhaps even more difficult to find there a field for profitable investment. As is well known, the feeling among foreign investors in Japan, in many instances, is that they have not always been treated with fairness by the Japanese Government (for example, in the case of the tobacco monopoly and, at times, in the courts); and, furthermore, that Japanese tradesmen are not always trustworthy in their dealings. The Japanese are making earnest efforts to develop their own manufactures along many lines, so that their market needs to be more particularly studied with reference to the nature of the goods which Americans can sell there, as well as with reference to the products of Japan which can profitably be purchased by Americans.

*The Other Countries.*—No different condition in the other countries needs especially to be touched upon here, as they are severally of relatively minor importance.

*Suggestions.*—This hasty indication of what may be found in the Philippines and in some of the other countries, serves as a basis for touching briefly upon some of the principles that need to be taught in connection with our commercial colleges, and carefully considered by our exporters. First, it cannot be emphasized too often that, in selling goods, it is necessary to consider the likes and dislikes of the purchasers rather than our own. Our consuls are continually dwelling upon the fact that American manufacturers and merchants are too strongly inclined to insist upon keeping their own standards, and imposing those standards upon the Chinese, Japanese and other foreigners. An illustration from late consular reports will explain:

Chinese shoes are quite different in type and style from American shoes; in consequence, our American rubber overshoes and boots are sold hardly at all in China, whereas Germany is supplying many. The Germans make a special, short half-boot of light weight, which does meet Chinese requirements, and the Chinese are using them in large numbers; whereas the American rubbers can be worn, and are worn, only by the few Chinese who have adopted the foreign style of dress, or by those who wear them as shoes and not as overshoes.

The Germans and the Japanese have far outstripped us in their readiness to meet Chinese needs. Hundreds of miles in the in-

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terior of China are found clocks, cheap ornaments and toilet articles of various kinds made in Germany or Japan, often after an American model, sometimes labelled as American, but poorer and cheaper than the American product, and in consequence more acceptable to the Chinese. If our merchants had learned the principle that they must study the needs of their customers as thoroughly as have the Germans and the Japanese, we should in many cases be supplying the needs now supplied by them.

Moreover, we have not learned to pack our goods well for so long and difficult a shipment. In consequence, our goods frequently arrive in the Far East so damaged that they are scarcely saleable,—an inexcusable neglect, showing lack of intelligent information.

Again, the English particularly, but also the Germans, have accustomed the people in the Far East to long-time credits. Obtaining their capital at low rates of interest at home, they will readily carry an account for six months or a year, whereas our dealers often require payment in cash, even in part before the goods are delivered. We can scarcely hope to achieve great success, if we do not recognize customs of credit such as these.

Most important, perhaps, of all, as I have intimated before, is the fact that we do not always have the reputation of fair and courteous dealing, either politically or in a business way, though in these regards we are on the whole not worse than others. The Chinese distrust all foreigners in many ways, though generally recognizing the business honesty of the regularly established houses. The record which the Americans have made in working the concession for what is possibly the most important railway in all China (the Canton-Hankow line), has greatly discredited us. In the concession, it was provided that the Company should be and should remain American; but, within a comparatively short time, the control of a majority of the stock was placed in the hands of the Belgians, who were apparently so closely associated with the French and the Russians that the Chinese felt, and with reason, that they had been grossly deceived and mistreated, not to use so strong a word as "betrayed," by the Americans. Only under pressure of the threat of cancelling the concession was the road finally bought back by Americans; and lately, as we know, the Chinese have bought back the road at a profit to the Americans;—or, to put the matter differently, the Chinese Govern-

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ment cancelled the concession and paid the American stockholders an indemnity large enough to yield them a profit. This treatment of this concession by the Americans, *i. e.*, the selling of the controlling share of the stock to the Belgians, which the Chinese themselves believe to be dishonorable, and which very many Americans who have investigated the question likewise consider dishonorable, has so discredited our Government and our business men that the small amount of money made by a few private speculators has been lost hundreds of times over by the loss of national and business prestige thereby incurred.

There is little use of attempting to extend trade in a country, unless we are willing so to deal that the citizens of that country will have confidence in us and will be inclined, on the whole, to like us rather than to dislike us. The prompt action of the President in his orders regarding immigration to our consuls and immigration officials is clearly wise and right. It is greatly to be regretted that means were not found in time to repair the damage to our prestige done by the Canton-Hankow railroad in some way which would have retained for us this concession.

It is to be said, on the other hand, that American individuals, whether travellers or business men resident in China, are often, if not usually, better liked personally by the Chinese than are the citizens of almost any other country. Americans, as a rule, are more kindly and more courteous in their treatment of the Chinese than are others. They have been trained in a democratic country, and they are more likely to treat the Chinese as equals, or at any rate as human beings, than as beings of an inferior order who may be beaten or kicked or insulted at will. I have seen foreigners, travelling in the interior, stone Chinese bystanders, who were merely gratifying a natural curiosity by looking at them, as in our rural districts, where Chinese are rarely seen, they would be looked at by our people. In Peking even, I saw one day an Austrian sentry, instead of quietly warning off an old ignorant Chinese and his wife riding a donkey along a forbidden path utterly innocent of any wrong-doing, club them both with a heavy cane until the old woman fell from the donkey in her fright and efforts to dodge.

In China particularly one should know the technical laws growing out of the principle of exterritoriality, which obtains in China in the dealings between the Chinese and foreigners. It might

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frequently be very useful to know the leading points in the commercial laws of Germany, France, England and other countries, because the laws of those countries are administered in China in the consular courts representing the different countries. Of course, the knowledge of goods of the type which the merchant proposes to sell or buy is essential.

We need, moreover, to train our young men, whether they expect to serve as consuls or as salesmen, that, if they are to succeed, they must be prepared to stay in the Orient a considerable length of time, and to study carefully the conditions. If their field of work is in China and they wish to be thorough, they must learn Chinese, at any rate must learn to speak the commercial Chinese—and that is no more difficult than to learn to speak German, although it is much more difficult to learn to write Chinese than to learn to write German. The Germans are compelling many of their well-trained young men to familiarize themselves with the Chinese language. We must do the same with ours. It is utterly useless to send out catalogues and price-lists printed in English, as is so often done.

Of greater importance is it, however, to study the Chinese customs of living, of manufacturing, of buying and selling, so that our manufacturers may fit their supplies to the local demands, and may stand ready to learn what opportunities may arise for improving the products of China which they may wish to buy for export. The general principles of buying and selling, of account-keeping, etc., may be learned in our schools; the details of an Oriental business can be learned only in the Orient.

The principles of money and of banking, and especially of foreign exchange, must be learned, and thoroughly learned; first, because, on account of the present evils arising from fluctuations in exchange, business is largely speculative, and it is necessary to reduce the risks as far as possible; and, second, because it is important that every foreign dealer in China should so understand what is needed that his influence may continually be used to induce the Chinese Government to improve its system. Too many of the suggestions already made by foreigners have been suggestions in the wrong direction.

It is important, too, for success from a national point of view in this commerce, that our young men should have a pretty thorough training in economics—enough to lead them to know

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and to feel that it will pay as well to learn what the Orient can sell as what it will buy; to see that exploitation is not a sound policy for a permanent foreign trade, but that a large and permanent trade can be built up, in the long run, only if it is soundly based upon a fair exchange for the benefit of both countries, and that an investment in a foreign country, for the purpose of developing its export trade, may prove as useful to the home nation as selling goods in that foreign country for the immediate profit of the home exporter.

Those interested in our commercial expansion in the Far East may also look further and see what can be done to train capable Chinese here; the Japanese are looking well after their own training. That will also extend trade, and it is of prime importance both commercially and politically. It is well known that Japan, Belgium, Germany, and other countries are offering special inducements to young Chinese to go to those countries to study, and they are going to those countries in far larger numbers than they are coming here. Probably fifty students go to Japan for every one coming to the United States. There can be no doubt that, when these Chinese return home to undertake work as engineers or as manufacturers or as merchants or as officials, they will certainly favor in the long run the countries in which they have been trained. It is greatly to be desired that both our Government and our people do what they can to encourage Chinese, Japanese, Filipinos, and other Orientals to come here to secure their training, both general and commercial. We can afford to make good financial expenditures to bring about that result.

And, finally, it is important to emphasize again that a fundamental business principle, to be kept always in mind, is that tolerant, liberal, fair dealing is the only wise policy from the business as well as from the moral point of view. This principle needs particularly to be emphasized in connection with the Orient, and with other countries less developed in commercial and manufacturing methods than our own, because the temptation is always stronger to deal unfairly with those unversed in Western methods, and because, as a matter of fact, the attempt has been made and in many cases successfully, both by governments and by individuals, to exploit unfairly many of the Orientals.

JEREMIAH W. JENKS.



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# THE POWER OF CONGRESS TO REDUCE REPRESENTATION IN THE HOUSE OF REPRESENTATIVES AND IN THE ELECTORAL COLLEGE.

BY EMMET O'NEAL.

THE exclusive right of the several States to fix the qualifications of voters is older than the Constitution. Exen in Colonial times the right to vote had been regulated by the several Assemblies and not by Parliament, and this right was not surrendered when the Federal Union was formed. As the Supreme Court of the United States declared:

> "The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

The Constitution of the United States, therefore, does not confer on the citizen the right of suffrage. The unabridged and exclusive right of the States to fix the qualifications of voters still exists, subject only to the prohibition contained in the Fifteenth Amendment. The removal of that prohibition would leave the several States vested with their original and unlimited power to regulate and control the suffrage of their citizens.

The scheme of reconstruction adopted after the close of the Civil War, influenced necessarily by the inflamed state of public sentiment engendered by that mighty conflict, included the Thirteenth, Fourteenth and Fifteenth Amendments. The abolition of slavery speedily followed, as an expected result of the war. As repeatedly declared by the Supreme Court, and as shown by the debates in Congress during the period of its adoption, the *main purpose of the Fourteenth Amendment* was to establish the

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*citizenship of free negroes,* which had been denied by the "Dred Scott" case, and to make all blacks, born or naturalized, in the United States, citizens of the United States.

The second section of this Amendment says:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

This section, then, confers on Congress the power to reduce the representation of a State which denies or abridges the right of any inhabitant of the State, twenty-one years old, and a citizen of the United States, to vote, except for participation in rebellion or other crime.

Is this section of the Amendment to be literally construed? Was its aim to inflict a penalty on the State which denied universal and unrestricted suffrage? Was it the purpose of the Amendment, while not undertaking to fix the qualification of voters, to condemn and punish the State which did not accord to every male inhabitant thereof, who had attained his majority, and who was not disqualified by crime, the unrestricted right of suffrage? Was the object of this amendment to change radically the whole practices of the State Governments, and to hold over a State which placed any restrictions or qualifications on suffrage the potent threat of reduced representation in the Congress and in the Electoral College? Is the State which limits its suffrage by the imposition of a property or educational qualification, or the requirement of registration, or the payment of a poll-tax, or a residence for a term of years, liable to the penalty of reduced representation under the provisions of this section?

We can but concede that an affirmative answer to these questions would voice the popular construction of the meaning and purpose of this section of the Amendment. This is abundantly established by the numerous discussions of the power of Congress

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on this subject, which have appeared in the past twelve months in the press and periodicals of the country, as well as by the debates and bills introduced in Congress. The power of Congress to reduce the representation of a State which imposes any restriction on the exercise of the elective franchise, seems to be generally conceded, the expediency of such action alone being questioned or denied.

Yet, if section two of the Fourteenth Amendment should be literally construed, the anomalies which would follow would be astonishing. A State which denied the right to vote to any male inhabitant who was twenty-one years old, except for participation in rebellion or other crimes, would be liable to the penalty prescribed. Such a construction would prevent the State from denying suffrage to idiots or insane persons. It would tacitly condemn any regulations requiring registration, or the payment of a poll-tax, as a prerequisite to the right to vote. A citizen of the United States, migrating from one State to another, would be entitled to vote in a State the moment he became an inhabitant of it. Yet the constitution of Alabama, for instance, provides that every person shall reside at least two years in the State before he is entitled to vote. The laws of other States contain similar provisions. But the requirement of a residence from any male citizen of the United States, before allowing him the privilege of voting, would be abridging the right of a male inhabitant of the State, who is a citizen of the United States, to vote and would be against the policy and purpose of section two of the Fourteenth Amendment.

In speaking of the Fourteenth and Fifteenth Amendments in the "Slaughter-house" cases, Justice Miller says:

> "But what we do say, and what we wish to be understood, is, that, in any fair and just construction of any section or phrase of these Amendments, it is necessary to look to the purpose which we have said was the pervading spirit of them all, the evil which they were designed to remedy, and the process of continued addition to the Constitution, until that purpose was supposed to be accomplished, as far as constitutional law can accomplish it."

Those who assume that any fair and just construction of any section or phrase of the Fourteenth Amendment warrants the conclusion that its purpose was to invoke the penalty of reduced representation against the State which did not vest all of its

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male inhabitants with unrestricted suffrage, and that such a State could only escape the consequences of exercising its power of prescribing qualifications for its voters by the leniency of Congress, have signally failed to comprehend the pervading spirit of the Fourteenth and Fifteenth Amendments, the evil they were designed to remedy, or the well-known and declared objects and purposes they sought to accomplish. The first section of the Fourteenth Amendment opens with a definition of citizenship, not only citizenship of the United States, but citizenship of the States. The definition of citizenship had been the occasion, as declared by Justice Miller, of much discussion in the courts, by the executive departments, and in the public journals. "It had been said by eminent judges that no man was a citizen of the United States, except as he was a citizen of one of the States composing the Union." It had been held in the "Dred Scott" case that a man of African descent, whether a slave or not, was not and could not be a citizen of a State or of the United States.

As declared by the Supreme Court, the main purpose of this Amendment was to establish the citizenship of the negro.

The first section of the Fourteenth Amendment also recognized and established the distinction between citizenship of the United States and citizenship of the State. To be a citizen of a State, a man must reside within the State; but it is only necessary that he should be born or naturalized in the United States to make him a citizen of the United States. While this amendment declared that no State should make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, the Supreme Court has declared that the right of suffrage was not one of the privileges and immunities of citizenship before the adoption of the Amendment, that at the time of its adoption suffrage was not coextensive with the citizenship of the State or universal, and "that neither the Constitution nor the Fourteenth Amendment made all citizens voters."

In other words, while this Amendment made the negro a citizen, it did not make him a voter. The further declaration in this Amendment, that "No State shall deny to any person within its jurisdiction the equal protection of the laws," was designed, as declared by the same court, to prevent any person or class of persons from being singled out as special subjects for hostile and discriminating legislation.

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Speaking of section two of the Fourteenth Amendment, the Supreme Court of the United States has declared in the case of "McPherson *vs.* Blacker" (146 U. S., p. 39), as follows:

"The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State. There is no color for the contention that, under the Amendments, every male inhabitant of the State, being a citizen of the United States, has from the time of his majority a right to vote for Presidential electors. The object of the Fourteenth Amendment, in respect to citizenship, was to preserve equality of rights, and to prevent discrimination as between citizens, but not to radically change the whole theory of the relations of the State and the Federal Government to each other, and of both governments to the people."

If contemporaneous history and practical construction are to be allowed their legitimate force, there is no basis, then, for the contention that section two of the Amendment authorized Congress to impose the penalty of reduced representation on a State, which, while making no discrimination against any class or race, exercised its sovereign power to prescribe qualifications for voters. Though the student can learn from the debates in Congress many reasons for the adoption of the Fourteenth Amendment, yet he can learn more from the report which the Joint Committee on Reconstruction made, when it offered the Amendment. In that report it was stated that it was doubtful whether the States would consent to surrender the power to prescribe the qualifications of voters, a power they had always exercised and to which they were attached. This was assigned as the reason for not vesting Congress with the right to regulate or control the suffrage. The committee concluded that political power should be based in all States, exactly in proportion as the right of suffrage should be granted, "*without distinction of color or race.*" Leaving the whole power of regulating the suffrage with the people of each State, as the committee declared, the creators of the Amendment believed that the advantages of increased political power would be an inducement to allow all to participate in its exercise.

The debates in Congress, and the declared purpose of its authors and advocates, establish beyond controversy that the primary purpose of the Fourteenth Amendment was to protect the negro race, and to force negro suffrage upon the South, by means of the penalty of a loss of its representation.

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Since the adoption of the Fourteenth Amendment, while numerous bills have been introduced in Congress seeking to enforce the penalty prescribed by section two of the Amendment, it was not until the national campaign of 1904, that any political party demanded the enforcement of this penalty. In the platform adopted at Chicago by the Republican National Convention is found the following:

> "We favor such Congressional action as shall determine whether, by special discriminations, the elective franchise in any State has been unconstitutionally limited; and, if such be the case, we demand that representation in Congress and in the Electoral College shall be proportionally reduced, as directed by the Constitution of the United States."

Since the convening of the last Congress, numerous bills have been introduced in that body, seeking to carry out this pledge of the Republican platform.

This section of the platform, moreover, is worthy of careful consideration, for it is the latest, most deliberate and authoritative expression of the views of the dominant political party on this important subject. It clearly and boldly presents the issue to the American people.

What is meant by "the unconstitutional limitation" by "special discrimination" by any State of the elective franchise? As we have shown, while the Fourteenth Amendment made the negro a citizen, neither it nor the Fifteenth Amendment made him a voter. The Fourteenth Amendment did not establish *universal* suffrage, either directly or by implication. It only imposed the penalty of reduced representation on a State that denied or abridged the right of the negro to vote, on account of his race or color. Construed, then, in the light of the Amendments, and following the construction of the Amendments made by the highest judicial tribunal of the Republic, the clear meaning of the Republican platform is a demand that Congress shall determine whether any State has denied or abridged the right of a citizen of the United States to vote, on account of his race, color, or previous condition of servitude, in violation of the Fifteenth Amendment. If Congress should determine that such denial or abridgement of the suffrage has occurred, the demand is, further, that the representation of such State shall be reduced by Congress in the House of Representatives and in the Electoral College. The pertinent and important inquiry, then, is, Has Con-

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gress the constitutional power to reduce the representation of a State in Congress and the Electoral College, if it should reach the conclusion that a State has denied or abridged the right of the negro to vote, on account of his race, color, or previous condition of servitude?

An answer to this important question requires a brief review and *résumé* of the history and purposes of the Fourteenth and Fifteenth Amendments.

The Fourteenth Amendment did not undertake, directly or by implication, to interfere with the rights of the States to regulate and control the suffrage of their citizens. If a State denied to the negro as a race the right of suffrage, the penalty which Congress could impose was a reduction of representation in Congress and in the Electoral College. Instead of denying, the Fourteenth Amendment recognized, the unabridged power of the State to deny the right of suffrage to the colored race, by the imposition of a penalty for its refusal. If this Amendment had denied the right of the States to refuse the elective franchise to the negro race, the imposition of a penalty for such refusal would have been unnecessary, for such a refusal would have been void. The authors and supporters of this Amendment had hoped and confidently expected that the penalty provided would prevent any State from denying to the negro, as a race, the elective franchise, on account of the reduced representation which might follow. In a recent work on the Constitution of the United States, Thorpe, after reviewing the debate on this passage of this Amendment, concludes with the following language:

> "The Fourteenth Amendment established the citizenship of the negro and was intended to secure him the benefit of his freedom. But still it left him without the right to vote. Its supporters had hoped that the Southern States would be induced to grant him this right because of the increased representation they would thereby secure in Congress. This hope was not realized, and the Republicans determined to take away from the States the power to discriminate against any citizen of the United States as a voter, on account of his race, color, or previous condition of servitude."

Embittered by the failure of the South to grant the negro the right to vote, Congress resolved to transfer to itself the power to regulate the suffrage in the States. It is a matter of history that, had the Fifteenth Amendment finally passed as amended in the Senate, the States would have been stripped of all power, and

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Congress alone would have dominated all elections, and regulated the qualifications of voters. Senator Williams, of Oregon, did propose to amend the original resolution offered by Boutwell by asserting the power of Congress to regulate the right to vote, and keeping the whole matter within the control of the National Government. But the entire Democratic vote resisted this radical innovation, and the Republican leaders were forced to agree to their views. Finally, Wilson, of Massachusetts, offered a substitute to the effect that no discrimination should be made in the right to vote, in any State, on account of race, color, nativity, property, education, or religious creed, and this substitute passed by a small majority. The House, however, declined to agree to this substitute, and the resolution was finally passed in the form in which the Amendment now appears, but only after repeated efforts had been made so to amend it, as to make every citizen, twenty-one years of age or over, a voter, not to be disfranchised except for crime. The history of this Amendment shows that, while the Democratic minority were unable to defeat a suffrage measure, they did determine its form, and did compel the majority so to word the Amendment as to recognize the sovereignty of the States, and to practically continue in the States the right to regulate the elective franchise.

The close vote, however, by which the proposition to transfer to Congress the control of the suffrage was defeated, shows by what narrow margin, the courage and fidelity of the opponents of the centralizing tendencies of the times prevented an innovation which would have fettered and degraded the State governments, by subjecting them to the control of Congress, in the exercise of a power, theretofore universally conceded to them, of the most fundamental character. So radical an innovation, if accomplished, would have changed the very form of our government.

The debates in Congress and the decisions of the Supreme Court established the following propositions:

1. The Fourteenth Amendment, while it made the negro a citizen, did not make him a voter, or deny the right of the State to exclude him as a race from participation in the elective franchise. As recently stated by the Supreme Court in the case of "Pope *vs.* Williams" (193 U. S., p. 632):

"The privilege to vote in any State is not given by the Federal Constitution, or by any of its Amendments. It is not a privilege springing

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from citizenship of the United States. It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, *to be exercised as the State may direct and upon such terms as it may deem proper, provided of course no discrimination is made between individuals in violation of the Federal Constitution.*"

2. The second section of the Fourteenth Amendment did not vest in Congress the power to reduce the representation of a State, which had regulated the suffrage in any manner it saw proper, provided the regulations were uniform, and did not discriminate against individuals on account of race, color or previous condition of servitude.

There is no authority for the contention that the Fourteenth Amendment sought to establish universal suffrage.

3. The Fifteenth Amendment simply invested the citizens of the United States with the right of exemption from discrimination, in the exercise of the elective franchise, on account of race, color or previous condition of servitude. Any action of a State, not directed by way of discrimination against the negro as a class, or on account of race, does not come within either Amendment.

These propositions of law, sustained by the highest judicial authorities, justify the assertion that there is no limitation on the sovereign power of the State to impose such restrictions or qualifications on the suffrage of its citizens as it may deem proper, which are not directed in hostility to the negro as a race, and that such regulations when tested by judicial construction will be upheld. As declared in the case cited above:

"A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote."

Before the passage of the Fifteenth Amendment, the former slaveholding States had the power to confine the suffrage to the white race, and accept the penalty of reduced representation, if imposed by Congress. The willingness of the South to accept reduced representation, rather than risk the horrors and profound degradation which would follow making a race of ignorant slaves their voters and lawgivers, their judges and representatives, was the primary cause that induced the passage of the Fifteenth Amendment. This Amendment withdrew from the States the

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power to discriminate against the negro on account of his race, in the exercise of the elective franchise. After its passage, no State could confine its voting population to the white race alone. As declared by the Supreme Court:

> "Beyond question, the adoption of the Fifteenth Amendment had the effect in law to remove from the State constitutions, or render inoperative, that provision which restricts the right of suffrage to the white race."

The Fifteenth Amendment in effect repealed that portion of the Fourteenth Amendment which recognized the unlimited power of the States to control suffrage, and to limit the elective franchise to the white race. Any discrimination by a State, by way of denial or abridgement of the right to vote, on account of race, color or previous condition of servitude, was rendered inoperative and void by force of the operation of the Fifteenth Amendment. No Congressional legislation was necessary; the amendment was self-executing without ancillary legislation.

It follows, therefore, that the passage of the Fifteenth Amendment withdrew from Congress the constitutional power to reduce the representation of a State on account of any legislation which discriminated against the negro as a voter on account of his race. If a State passed a law which violated the provisions of the Fifteenth Amendment, such a law was unconstitutional and void. If the law was void, it could not deny or abridge the right of the negro to vote. By what authority, then, can Congress reduce the representation of a State for enacting, by its constitution or by statute, laws which discriminated against the negro in the exercise of elective franchise on account of his race or color—laws which, by the operation of the Fifteenth Amendment, are void *ab initio;* which possess no more force or effect than if they had never been written on the statute-book? A State law which contained such discrimination would be void; and, when tested in any court, State or Federal, would be so declared.

This doctrine has been recently declared in the case of "Giles *vs.* Teasly" (193 U. S., p. 146). In that case, the complaint alleged that the provisions of the Alabama State constitution were repugnant to the Fifteenth Amendment. Demurrers being filed, the court held that, if the provisions of the constitution of the State were repugnant to the Fifteenth Amendment, they were

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void, that the Board of Registrars appointed thereunder had no existence and no power to act, and would not be liable in an action for damages for the refusal to register.

If the constitution of Alabama is in violation of the provision of the Fifteenth Amendment, it is void, and would furnish no obstacle to the exercise of the right of suffrage by the negro. Congress could not reduce the representation of Alabama for disfranchising the negro, when by operation of law the disfranchisement did not exist.

The demand of the Republican platform, a demand from a party which received the endorsement of the people in the last national election, is that Congress must determine whether a State has passed a law in violation of the Fifteenth Amendment. It is clear that Congress can only decide this question by exercising judicial functions, by converting itself into a court, and sitting in judgment on the constitutionality of the laws of a sovereign State of the Union. Having usurped judicial functions, having reached the conclusion that the suffrage laws of a State were unconstitutional, that the negro as a race was disfranchised on account of color, the next step which is demanded is that a reduction shall be made in the representation of the State in the lower house of Congress and in the Electoral College. The programme of usurpation disclosed by the demands of this platform should arouse the serious and earnest consideration of the country. Well may it be asked, What reason could be given for such a reduction in representation, if Congress should decide to make it? What would be the offence of which the State was guilty, which would justify Congress in stripping it of its sovereign power and lessening its influence in the councils of the nation? The only answer could be that the State had passed laws which, by the express terms of the Fifteenth Amendment, were void and inoperative; which, in the language of the Supreme Court, "*have no existence*"—laws which left the negro, possessing the requisite qualifications, the same right to vote as the white man.

In other words, the exercise of the power claimed for Congress, by the demands of the Republican platform, would put Congress in the singular attitude of reducing the representation of a State for passing a void law. Suppose Congress, in the exercise of its assumed power, should decide that a State law on suffrage was

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repugnant to the Fifteenth Amendment, and should proceed to reduce the representation of that State, and the Supreme Court should declare the law to be valid, and constitutional—which decision would control, the decision of Congress, or the decision of the highest legal tribunal in the country?

The Constitution of the United States provides that the judicial power of the United States shall be vested in the Supreme Court. This judicial power, in the language of the Constitution, "extends to all cases in law and equity arising under the Constitution, the laws of the United States, or to controversies between a State and its citizens." Yet, if the asserted power of Congress to sit in judgment on the constitutionality of the laws of the States in reference to suffrage, has any existence or warrant of law, its effect would be to strike down the line of demarcation which obtains between the three great departments of Government. The courts would be stripped of their power to expound and enforce the laws, and in their stead would be substituted a partisan Congress, obeying the exigencies and demands of party necessity rather than the rules of law; vested with judicial functions, and made the final judge of the validity of the laws of the States; clothed with arbitrary power to reduce the representation of the States and lessen their influence in the House of Representatives and in the Electoral College. The power of the courts to determine great constitutional questions would be transferred to a partisan Congress, and the legislative department of the Government would usurp the functions of the judiciary.

The courts of the country are fully competent to protect the negro in all his rights of suffrage, by rendering inoperative any hostile or discriminating legislation, in violation of the Fifteenth Amendment. The radical doctrine now asserted is that a State can be stripped of its power, punished and degraded for passing laws which, by operation of the Fifteenth Amendment, are absolutely void. Fortunately for the country, this dangerous doctrine has no warrant or support in the Constitution, and was repudiated and denied by the Congress that framed the Fifteenth Amendment. It was denounced then as an effort to subvert our form of government, and convert it into a single, centralized and consolidated government, in which the separate existence of the States would be entirely absorbed. It would establish an unqualified despotism in place of a Federal Union of coequal States.

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The power of Congress to reduce representation in the House of Representatives and in the Electoral College, under the provisions of the second section of the Fourteenth Amendment, could only arise when a State abridged or denied the right to vote on account of *race, color, or previous condition of servitude.* Until the passage of the Fifteenth Amendment, the State possessed such power. It does not now exist. The Fifteenth Amendment, in effect, repealed that portion of the Fourteenth Amendment which authorized or recognized the power of the States to limit the suffrage to the white race, and hence necessarily withdrew from Congress the power it possessed to reduce representation. Of course, the Amendment might still afford a remedy "for a case, supposed by Madison, where treason might change a State government from republican to despotic, and thereby deny suffrage to the people."

The Fourteenth Amendment was in the nature of a threat. It said to the former slaveholding States: "Unless you include the negro among your electors, Congress will reduce your representation." The South answered that she would consent to the surrender of her power in the councils of the nation rather than submit to the unspeakable horrors, the humiliation and degradation which would follow the rule of an inferior race, from whose limbs the shackles of slavery had been struck in hot and vengeful haste, and who without previous preparation had been clothed with all the responsibilities of citizenship. The dominant party that controlled Congress, bitterly disappointed at the attitude of the South, replied with the Fifteenth Amendment, saying in effect to the South: "Since you will not accord suffrage to the negro, we now prohibit you by a constitutional Amendment from abridging or denying the right of the negro to vote on account of his race or color; we no longer threaten you with reduced representation if you fail to carry out our settled policy. *We command you to make no discrimination against the negro as a race in your suffrage laws.* You can no longer accept the alternative of negro suffrage or reduced representation, and we leave no field for the provisions of section two of the Fourteenth Amendment. Congress cannot reduce your representation because you are without power to abridge the right of the negro to vote on account of his race. Such an abridgement would be void by the mere operation of the Fifteenth Amendment, without any ancillary legislation."

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Keeping, then, steadily in view the established fact that the Fifteenth Amendment in effect repealed and nullified section two of the Fourteenth Amendment, which authorized Congress to reduce representation for a denial or an abridgement of suffrage to the negro race on account of race or color, the Southern States, which, in the exercise of their sovereign and unquestioned power to regulate and control the suffrage of their citizens, have been impelled by a solemn conviction that the preservation of their civilization demanded that they prevent a recurrence of the horrible misrule, anarchy and corruption which followed unrestricted negro suffrage, need have no apprehensions of a reduced representation. Having violated no provision of the Federal Constitution, but only exercised a right they reserved when the Federal Union was formed, the States of the South, with no word of apology on their lips—not in the attitude of suppliants asking for mercy or appealing to the clemency of the dominant political party—can with calm and assured confidence rest their defence on the bedrock of the Constitution.

The South alone is competent to solve the serious problems which were created by the emancipation and enfranchisement of the negro race,—to solve them justly, permanently, and with such wisdom as is possible to the finite mind. And, while it is to be hoped that the conservative sentiment of the country will prevent any serious effort being made to put into force and effect the repudiated policy of Congressional control of the suffrage,—to revive sectional animosity and rekindle race antagonisms,—yet the States of the South which have reformed their suffrage laws are sustained by the confident assurance that they have only exercised powers never surrendered to the Federal Government, powers essential to the preservation of their local governments from misrule and virtual anarchy.

The Southern States can place their reliance, not on partisan majorities in Congress, not on the shifting sands of political expediency, not on the support of political allies, or the endorsement of the conservative and intelligent sentiment of the country, but rather on that supreme judicial tribunal of the Republic, which has always "held with a steady and an even hand the balance between State and Federal power."

EMMET O'NEAL.

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# IS CATHOLIC EDUCATION A MENACE TO AMERICAN INSTITUTIONS?

BY THE REV. JOHN F. MULLANY, LL.D.

CATHOLIC schools are as well established a fact in the United States as is the Catholic Church. Parish schools and private schools, convents and academies, colleges and universities, kindergartens and manual-training schools are scattered throughout the land. The foundling and the orphan are cared for as well as the child of wealth. The charity of the Church is the practical application of her teachings, and this charity is as widespread as humanity. It stops not at creature comforts and material well-being, but supplies intellectual food and distributes the bread of moral and spiritual life. Education has been at all times in the history of the Church a vital question upon which she has never made compromise, a paramount fact for which her children are prepared to make many sacrifices; it has been a cherished work to which she has given her serious thought. The decrees of Council and Synod in every Christian land are untiring in urging upon the clergy to look after the education of the children, the faith and morals of their teachers, and the character of the instruction given them. Wherever a church is erected to-day there a school must be established.

## I.

The education of youth is intimately and inseparably connected with the work of the Catholic Church. It is a function she can never abandon. And so we witness to-day the spectacle of men and women renouncing all other duties and responsibilities in life, that they may devote themselves to the noble work of educating Catholic youth. They impart secular knowledge, and with it, giving it life and force, they impart Christian doctrine

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and the principles of Christian morality. These religious teachers are held in respect and esteem by those who know them, and looked upon with suspicion by those who have not the proper conception of what we call a "religious vocation." There are some persons who, in all earnestness, ask the question: Are these men and women competent to train and educate the youth of our country and make them good citizens? Let us briefly examine this question.

In doing so, we must remember that there are certain fundamental truths that cannot be ignored. Modern civilization is erected upon a religious basis, and that basis is Christian. A Christian spirit pervades our laws and customs; it moulds our public opinion; it is the inspiration of the best and noblest in our literature; it establishes our criterion of right and wrong. This Republic of ours has been signally Christian in its formation and in its development. The early settlers were earnest in their religious views. They generally acted up to the dictates of their conscience, whether it bade them be intolerant, as in Puritan New England, or tolerant, as in Catholic Maryland. Our Constitution was framed in a Christian spirit; our laws are, many of them, administered with the Decalogue in mind as the measure of action. The hate, intolerance and fierce bigotry have, in a measure, dropped from the old Puritan spirit, and it now stands forth clothed in the broad garb of Christian charity, and the better elements of that spirit rule our people.

Another fundamental truth is that, as with art, with history, with nations and peoples, there is an ideal, so has each individual his ideal. The ideal in its highest form is the development of the soul towards the perfection of the whole man. But the perfection of the whole man implies the perfection of the citizen. Now, Christianity has supplied the ideal in the person of Jesus. Every approach to the Divine Ideal is an onward and upward step in the march of humanity. And so the perfection of the soul in every virtue is also the perfection of the man, the citizen. The historian, Lecky, who recently passed away, said:

"The great characteristic of Christianity, and the great moral proof of its divinity, is that it has been the main source of the development of Europe, and that it has discharged this office, not so much by the inculcation of a system of ethics, however pure, as by the assimilating



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and attractive influence of a perfect ideal. The usual progress of mankind can never cease to be distinctively and intensely Christian, as long as it consists of a gradual approximation to the character of the Christian Founder. There is, indeed, nothing more wonderful in the history of the human race than the way in which that ideal has traversed the lapse of ages, acquiring a new strength and beauty with each advance of civilization, and infusing its beneficent influence into every sphere of thought and action."

Here is a great truth, recognized by Christian and non-Christian alike.

The ideal of all mankind, indeed of all civilization, being the Christian ideal, how may it be acquired by each individual and preserved by the whole nation? Assuredly not by excluding Christian prayer, Christian dogma and Christian practices from the life of a child during a certain number of hours daily; neither is it to be acquired by reducing Christian truth to a minimum. Not in secularized schools is the Christian ideal impressed, for the image that is not seen cannot affect the eye. And when all other ideals are brought forward—Pagan ideals, literary ideals, scientific ideals, football ideals, ideals of the prize-ring, ideals of the race-course, ideals of the stock-market,—where afterwards may room be found for that all-important, all-absorbing ideal, which is the great exemplar of human life? It falls into the background: it may easily be forgotten or ignored, or brought into contempt. Nor can that ideal be impressed through the teaching of an emasculated Christianity, for such in reality is the paring down of a creed to that which is common to all denominations. The vague, the indefinite, cannot present a motive of action. The history of all religions reveals the fact that the more clear-cut is the dogma, the more accurately defined is the creed, the stronger and more efficient has been its influence upon men and nations. Then, and then only, is it a life-giving force.

It should be remembered that every principal fragment of Christian revelation is a treasure to be prized more than life itself, and the retention of even a single Christian truth, were it only the essential fundamental truth of the divinity of Christ, is an unspeakable blessing. But the faith of Catholics cannot accept Christianity in this fragmentary form. Non-Catholics who still believe in Christ are so visionary in their beliefs, and to such an extent confuse matters of faith with matters of opinion,

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that they do not perceive the evil of minimizing Christian truth or separating Christian doctrines. With time they will learn that such paring away destroys all the robustness of Christianity as a living force, and ends in a complete loss of faith. But it is a cause of surprise to them that Catholics cannot allow their children to accept an education based upon what is vaguely styled "a common Christianity." They have formed an erroneous conception of the real character of the Church. At best, they look upon her as a form of Christianity, differing from the various denominations only in certain details of doctrine; this difference being simply one of degree rather than of kind. Such a view of the Church places her among the sects. It is a view that no Catholic can hold. And when we shall have known the Catholic conception of the Church of God, we will be in a position to understand the conscientious motives that impel Catholics to make sacrifices in order to have schools of their own.

The Catholic Church is not a sect. She is not merely a body of doctrines, nor a code of morality, nor an aggregate of individuals holding a common belief. Nor is she a purely human institution erected upon an inspired book. She is something more. She is a living organism, whose soul is the Holy Ghost and whose head is Jesus Christ; permanent in the midst of change; ever holding the same body of truth; ever employing the same means of sanctifying souls, and ever dispensing favors out of the treasury of grace and mercy that God has placed in her keeping for the benefit of man. What she was in the morning of human creation, she shall continue to be during all eternity. Generations are born, and grow to maturity, and decay, and vanish from the scenes of life, but the Church is not these generations. They come and go, but she remains unchanged and unchangeable, one of God's fairest and noblest creations. She is the lawfully established medium by which God holds communion with man through His Divine Son, the Word Made Flesh. In all that goes to make up her very essence and nature,—in the divine elements of that essence and nature,—she stands aloof from the mere accidents of earth and the changes of time. Her past is one with her present; her present shall be one with her future. What her teachings were in the long ago, they shall be in the farthest time to come. Her doctrines may be more clearly defined with the evolution of human thought; they may

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be adjusted to the environment of intelligence, and recast in the literary and scientific language of a given period; but they are still the same doctrines that were in the deposit of faith when the Holy Ghost first breathed into the Church the breath of her supernatural life, and constituted her the greatest living organism by which man is raised to the supernatural sphere of grace.

The distinction between the divine and the human elements of the Church is ever to be borne in mind. Her children may sin grievously; scandals and abuses may prevail among those enrolled under her banner; the men into whose hands her destiny has been committed may prove themselves unworthy of their high trust; but the deepest stain upon them sullies not the Church of which they are unworthy members. She can have no part in sin or crime. Her divinity is hedged in beyond the reach of sinful man. She is incorruptible. Holy in her doctrines, holy in her sacraments, holy in the lives of those among her children who live up to her teachings, the splendor of her holiness cannot be tarnished. She is one and indivisible in her faith. He who knowingly and deliberately rejects a single article of that faith, thereby ceases to be a living member of her mystical body. She is all-embracing in her charity. She exacts from her believers neither learning nor transcendent dispositions of mind and heart. The most unlettered man or woman may be as acceptable in her communion as the possessor of the acute intellect of an Augustine, an Aquinas or a Leo XIII. She never grows old. She is a momentous fact, an ever-living presence. This faintly traced conception of the Church is that which every practical Catholic holds consciously or unconsciously. And it is in order that their children shall inherit this sacred birthright that Catholic parents, as a rule, endeavor to send their children to a Catholic school. They consider it a crying injustice to their offspring to do aught that would deprive them of this precious heritage, or endanger their losing it through ignorance or indifference.

## II.

The statement is made, by well-meaning persons, that the teachings of the Catholic Church are a menace to our American institutions. Let us see. Is there anything in Catholic doctrines intrinsically opposed to the spirit and the Constitution of our country? Search the books of recognized authority. In

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vain do you ransack the pages of representative Catholic writers for any doctrine or dogma that is incompatible with American institutions. The great Catholic theologians have been eloquent expounders of broad political views. St. Thomas Aquinas,—and who more representative than the Angel of the Schools?—assures us that the best constitution is where there are to be found a leader who is virtuous, and a select body of men to govern with him in equity and justice—all being selected from the people. He says:

"The best constitution of princes, or of chiefs, in a city or in a kingdom, is where a single person is proposed according to virtue, which government appertains to all, as well because the chiefs may be elected from among the whole people, as because they are in fact elected by the whole people. This kind of government is the best, being well mixed with royalty, inasmuch as only one presides; with aristocracy, inasmuch as several govern according to virtue; and with democracy, that is to say, with the power of the people, inasmuch as the princes may be elected from among the men of the people, and that to the people it appertains to elect the princes."

Thus, in days of kingly rule, did St. Thomas lay down the principles both of a constitutional monarchy and of representative government. This is doctrine wholly in accord with our Constitution, for it makes the people the source whence the ruler or chief is to be elected, be he called "King" or "President."

No less conformable to the spirit of our legislation is St. Thomas's idea of law. An essential element of human law is that it be according to the principles of reason. He does not regard as law any ruling that agrees not with those principles. In so far as legislation deviates from right reason is it unjust; in such a case it is not law at all, but rather a species of violence. Law should not be made for private ends, but rather to subserve the common good. It is any rational ruling for the common good, promulgated by whomsoever is charged with the care of the social body. This great Schoolman draws all the legitimate conclusions from the principles he lays down. His is a logic that stops not half-way. The ruler of the government that should enact laws not in accord with reason and common sense, would truly abuse the power vested in the one or the other, and would forfeit the confidence of the people; and the people were fully justified in alienating their affections from such a ruler or such a government. He thus places sovereignty in

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the hands of the people. He goes farther, and asserts that all men are in their nature and essence equal. Thus it is that the political philosophy of Aquinas is the basis of our Declaration of Independence. The principles taught by this Catholic doctor are the principles upon which our Constitution is constructed. His are the principles upon which the Fathers of the Revolution acted when they fought for liberty and justice. Now, the Catholic doctrine here glanced at is held and taught in our Catholic schools. Is there in it anything subversive of our American institutions?

But we are told that the Catholic Church is opposed to human progress. By no means. Be it known that all movement is not progress. Motion may retrograde as well as advance. Now, modern Democracy and modern Socialism are of Christian origin, and some of our most advanced Socialists have been churchmen. Of course, there is a true and a false Socialism. There is the Socialism that leads to the destruction of all law and order, and there is the Socialism that would raise men up out of poverty and misery and discontent into ease, competence and happiness. Catholic Socialism is a recognized force in these days. It seeks the amelioration of the people through religious influence; its chief aim is to combat the irreligious tendencies of the Socialism of materialism, atheism and infidelity. This latter Socialism is based upon false conceptions of man's place in this world, of his rights and duties, of labor and capital, and it increases in proportion as the religious life and the religious spirit grow weak. The two Socialisms have very little in common. True Socialism, as well as true Christianity, implies the protection and support of the weak. The Socialism that draws its principles from Darwinism is for the destruction of all but the strong. It is built upon the theory that only the fittest shall survive. There is between the two an antagonism that knows no reconciliation. In the teachings of the late lamented Leo XIII on the condition of labor and the rights and duties of the working-man, are laid down the principles of Christian Socialism. Therein are clearly defined the lines of advancement. Anarchy and Nihilism are as far removed from the teachings of Pope Leo XIII as were the sense of right and justice from the followers of the anarchist who took the life of our revered President McKinley. Catholics possess, in a measure, as by re-

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flection, some of that wary, conservative spirit of the Church, who has her course ever mapped out, knowing whence she came and whither she is going, and who is not easily moved by every shifting wind of doctrine nor likely to adopt every newfangled notion. Were they a body of men who to-day might be Millerites, to-morrow Mormons, next day Christian Scientists or Dowieites, then indeed might their restlessness become a menace to the community. But, in every great issue that arises, the Catholic body is found on the side of order and true progress. Where, in any of the official pronouncements of a Baltimore Council or in any Papal utterance, may you find one iota not compatible with the spirit of progress along the lines of a wise conservatism? Well, it is in this same spirit of progress that the Church fosters Christian schools and indoctrinates her children. Why, then, should men fear the teachings of those schools?

## III.

Even when it is conceded that our Catholic citizens are conservative and public-spirited, and that there is nothing in our Catholic teachings and dogmas incompatible with republican institutions, we are still told, by some people, that, in keeping our Catholic children aloof, and educating them upon other methods than those made use of in the public schools, we are placing them at a disadvantage; they lack, it is said, the true American spirit, inasmuch as they do not pass through the same mould as other American children. Thinking men have been recently testing the value of that mould, and have found in it some serious flaws. We do not propose throwing stones at that mould; we would not see it destroyed; we consider it in many respects an admirable institution. We would see it strengthened and perfected and made truly American; for we hold that the public school, as it now exists, is not an ideal American institution. One-third of the taxation that goes to the erection and support of that institution is taxation without representation, inasmuch as those paying the taxes cannot in conscience avail themselves of its advantages. Again, the public schools, in their present secularized form, are opposed to the intentions which the Fathers of the Republic had in establishing them. All the early schools had a decidedly religious cast. Strong religious sentiments permeated their reading-books; religious practices accom-

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panied their class exercises; religion was in the home, in the school, in the town hall, in the very atmosphere. The Puritans were an intensely religious people; it was their strong Christian faith, though somewhat marred by their Puritanical prejudices, that built up the stanch citizens who made this country. Except where a School Board, here and there, can manage to retain a text-book that gives a good, old-fashioned fling at Papists and the Church of Rome, would these venerable fathers recognize in our secularized schools of to-day the legitimate descendants of their village, town and district schools? The truly American school should be the school broad as the American Constitution, the school in which every religious denomination would have its own teachers paid out of the tax that its members contribute. Then might every Christian boy and girl attend them, and find in them the spiritual nourishment that would make of each and all robust Christian men and women. Then would the Christian spirit, that has given solidity and force and energy to our republic, continue to make us a Christian people.

The methods of our Catholic schools are not the methods of the public schools. The Jesuits have their methods bequeathed to them from the sixteenth century, when they captured the whole civilized world by the brilliancy of their teaching; the Sisterhoods have their methods modelled after the constitution that Peter Fourier drafted for them in the last years of the same century; the Christian Brotherhoods have their methods as laid down by one of the most eminent educational geniuses of the seventeenth century, Saint John Baptist de la Salle. Now, we want the light of day let in upon these methods. We would have them perfectly understood. We would have them examined in their application and in their results. We do not fear contact with the State. We would have all our teachers hold certificates and diplomas from the State. We would rejoice to see the State Superintendent of Education visit our classes, examine our work, read our text-books, study our methods, look carefully into the results we achieve: in a word, become familiar with our work. We are not ashamed of results or of methods. We do not shirk competition. What we do emphatically object to is that so-called intelligent men should cry down our methods and sneer at our results without having ever given a fair examination to one or the other.

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Wherein, then, is this system incompatible with our American spirit? Is it that we do not teach patriotism? Patriotism is not a commodity to be confined within the covers of a book. It is not a lesson to be conned by rote. It is in the very air. It permeates public opinion; it underlies our public and private actions; it dictates our public measures. It can no more be kept out of a school, when it is the inspiration of a whole people, than can the atmosphere one breathes. It may be fanned in the child's breast to a brighter glow by the rehearsal of the story of independence, of the lives of America's great men, of the deeds of valor and daring achieved upon the battle-field; by the recital of extracts from our great orators and poets; by the celebration of anniversaries and the raising of flags; but these things would avail little in a breast in which the spirit of patriotism was extinct. Now, the healthy patriotic sentiment that fills the land has not been shut out from our Catholic schools. We do not neglect the history of our independence, though we may call the attention of our Catholic youths to the share such men as Charles Carroll of Carrollton and his cousin, Archbishop Carroll, and Barry, the father of the American navy, and other Catholics, took in the struggle. While we trace the wonderful growth of our country in wealth and prosperity, we do not fail to make our children familiar with the no less wonderful progress of Catholicity in this land of liberty; while we omit no name that has honored America in the world of letters, we do not forget to mention those who, being Catholics, are ignored or inadequately treated in text-books coming from non-Catholic pens. We have actually been censured for this, and our school-books have been called un-American. Is the accusation in any sense a fair one? Surely, the censure is far more un-American than the act censured, for the essence of our American spirit is a sense of honesty and fair play.

And for this reason it will not be regarded as a fault of our system if we teach history from our own point of view. Once we were accused of falsifying history when treating of the great religious upheavals of the past; but there is not a statement in our Catholic books that cannot be confirmed by a non-Catholic authority of weight as a scholar. We hold with Carlyle that "the first of all gospels is that no lie shall live," and so we cannot always accept either the statement of fact or the con-

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clusions of our non-Catholic historians. We hold that our Catholic historians ought to be the best judges of all matters pertaining to the Catholic Church, just as the members of a family should be best acquainted with the inner workings and purposes of the family in all its actions. For this reason, we positively decline to accept most versions of history that are prepared for our public-school children.

Finally, it is objected that this exclusiveness of our Catholic schools prevents our Catholic children from being moulded after the typical pattern of the American child. Then that is equally true of every private school in the land containing the children of the élite. Every objection applying to us would with equal force apply to them. There is a difference in the type of boy or girl turned out by a Catholic school and a public school. The public-school child is more self-reliant; he has more assurance; he never doubts his ability to do anything he undertakes: the Catholic school child is diffident of his powers, underestimates himself and requires encouragement to put forth his whole strength. This is especially true of the child of Irish descent. Is this modesty and diffidence a great defect? It may handicap one at the start; but, with practice in any trade or profession, with the constant incumbency of putting forth all one's energy to hold one's own in the struggle for place and wealth, the modesty and diffidence soon cease to be a source of weakness. In all other respects, an analysis of the objections vanishes into thin air. It is a mere cant phrase. There is no moulding, there is no fusion. Children that sit on the same bench in school in after-life may never meet. Each may belong to a different circle. But the child who has a religious education, and who lives up to the precepts of his training, need not regret it. He is no stranger; he is at home in a Christian republic safely guarded by Christian laws, animated by Christian sentiments and holden by a Christian standard of truth and morality.

JOHN F. MULLANY.

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# CANADA AND THE JOINT HIGH COMMISSION.

BY LAWRENCE J. BURPEE.

THE Joint High Commission, called together to deal with certain matters in dispute between the United States and Canada, has now been in a state of suspended animation for seven years. Is that state to become chronic; or is there any reasonable probability of the Commission's being reconvened in the near future? There have been rumors of an awakening from time to time; and recently these rumors have become so persistent as to give rise to a widespread impression that the reassembling of the Joint High Commission is at last within measurable distance.

It would be folly to make any prediction in such a matter. Nothing is quite so fickle as international relations. The thing that seems altogether probable to-day, may to-morrow be thrust into the dark realm of impossibilities. Ignoring, however, the chances of the future, the occasion may not be inopportune for a discussion of the subject, in the light of existing circumstances, and from the point of view of a Canadian onlooker.

To make clear the present attitude of Canada—as the writer sees it—it is necessary to review briefly the history of the Joint High Commission. Although it sat such a comparatively short time ago, events of more than ordinary importance have crowded thickly upon the pages of British and American history in the interval; both countries have gone through the stress and turmoil of war, with all its tendency to obliterate independent surrounding events. One may safely say that ninety-nine out of any hundred persons in the United States and Canada have long since forgotten the circumstances which gave rise to the Joint High Commission, the subjects it dealt with, and why it adjourned indefinitely without achieving any tangible results.

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The Joint High Commission—or the International Commission, as it has sometimes been called—grew naturally out of the negotiations for the settlement of the Bering Sea Question.

It may be remembered that, following the Paris Award, a great deal of diplomatic correspondence took place between the United States and British authorities, with reference to pelagic sealing. Nothing of much consequence came of this, as the views of the American and British governments were hopelessly at variance on the subject. However, in 1897, a conference was arranged of British and American experts, to report on the condition of the fur-seal herd frequenting the Pribilov Islands; and the report submitted was afterwards considered at a meeting of United States, British and Canadian representatives, who also took occasion to discuss the broader questions involved in the Bering Sea matter.

Although the conference was of a more or less tentative nature, and the proceedings were never made public, it appeared from semi-official statements in the press, and from subsequent correspondence between Mr. Foster, the United States Seal Commissioner, and Sir Wilfrid Laurier, that during the conference a suggestion was made by the Canadian representatives that it would be desirable to settle not merely the Bering Sea Question, but all matters in dispute between the two countries.

After some discussion, Mr. Foster made the following proposal:

"First. That the Governments of Great Britain and the United States agree at once to a *modus vivendi*, providing for a complete suspension of the killing of seals in all the waters of the Pacific Ocean and Bering Sea, for one year from December 31, 1897, and for suspension of all killing of seals on the Pribilov Islands for the same period.

"Second. That the British Ambassador and one or more representatives of the Canadian government, on the one part, and such representative or representatives as may be designated by the President of the United States, on the other part, shall, with as little delay as possible, take up for consideration, with a view to settlement by means of treaty stipulations, the fur-seal question, the protection of fish in the waters of rivers and lakes contiguous to the United States and Canada, the subject of reciprocal emigration, commercial reciprocity, or any other unsettled question between the United States and Canada, which either of the Governments may see proper to bring forward."

The second proposition was perfectly satisfactory to the Canadian representatives, but the first was not; and, as the second

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was made contingent on and subject to the first, an agreement seemed to be as far off as ever.

The views of the United States Government were succinctly stated in a letter from Mr. Foster to Sir Wilfrid Laurier, on December 2nd, 1897:

"Our view (is) that pelagic sealing ought to be voluntarily given up, because it is unneighborly in that it is destroying a valuable industry of our government, and inhumane because it is exterminating a noble race of animals useful to the world.

"When it is proposed to negotiate for the surrender of the legal right of pelagic sealing, we are told that this cannot be brought about by a fair compensation to those engaged in the industry, but that the question must be included with a number of other subjects having no relation to it whatever, and that it must await the fate of all these matters, some of which, as commercial reciprocity and the tariff, are very complex in their character, and others, as the northeastern sea fisheries, of long standing and very difficult of adjustment.

"Notwithstanding, the President feels that the subject of the proper protection of the seals should not be complicated with other questions of intricate public policy and conflicting interests, in his earnest desire to promote a more friendly state of relations between the two neighboring countries, he has consented that all those questions should be embraced in one series of negotiations, if meanwhile a *modus vivendi* could be agreed upon which would save the seals from destruction while the negotiations were in progress."

Both the British and Canadian authorities took issue with Mr. Foster as to the vital necessity of an immediate suspension of pelagic sealing, basing their opinion upon the reports of British scientific experts; and, after a lengthy diplomatic correspondence, the demand for a *modus vivendi* was apparently dropped by the United States, and an international commission agreed to unconditionally.

The Joint High Commission met at Quebec in August, 1898, the British side of the Commission consisting of Lord Herschell, for the Mother Country, Sir Wilfrid Laurier, Sir Richard Cartwright, Sir Louis Davies and Mr. John Charlton for Canada, and Sir James S. Winter for Newfoundland; while the United States was represented by Senator Fairbanks, the Hon. George Grey, John W. Foster, Nelson Dingley, John A. Kasson and T. Jefferson Coolidge. Lord Herschell was made chairman of the Commission, which sat for a time in Quebec, and in October adjourned to Washington. The meetings were continued there up

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to February 20th, 1899, when the Commission again adjourned, nominally to meet in August of the same year, but in reality for an indefinite period.

As the Joint High Commission was never formally closed, and as no final agreement or conclusion was reached by it upon any of the subjects dealt with, no official statement was ever made public. In one way or another, however, it became known that the questions considered by the Commissioners were substantially as follows: The Bering Sea seal fisheries; the subject of reciprocal trade relations; the Alaskan boundary; the Atlantic fisheries; the bonding privilege; preservation of fish in contiguous waters; construction and maintenance of war-vessels on the Great Lakes; alien labor legislation; wrecking laws; conveyance of prisoners through territory of each country; and, perhaps, one or two other minor matters.

When the question of the Joint High Commission had first been mooted, the Bering Sea seal fisheries seemed to be the chief bone of contention, the United States very naturally desiring to dispose of it without regard to the other questions at issue between the two countries, and Canada as naturally preferring to make it part and parcel of the general agreement. At this stage of the proceedings the Alaskan boundary does not appear to have been even thought of. At any rate, it is not mentioned either in Mr. Foster's memorandum or in Sir Wilfrid Laurier's reply.

After the Commission had been convened, however, the Alaskan Boundary question forged rapidly to the front, and finally became the most serious issue with which the Commissioners had to deal. Both sides were anxious to get it out of the way, but they could not agree upon the method. Various forms of arbitration were suggested and discussed, but without avail. What was satisfactory to the British side did not meet the views of the American Commissioners, and *vice versa*. As the Canadians were strongly of the opinion that all matters in dispute should stand or fall together, the Joint High Commission broke up without having accomplished anything tangible.

Nevertheless, the Commissioners got pretty close to a settlement of several of the questions at issue; so much so that, when the Alaskan boundary was finally referred to a special commission, early in 1903, Senator Fairbanks at once suggested to Sir Wilfrid Laurier the desirability of reassembling the Joint High Commis-

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sion, and settling the other questions that still remained outstanding. "The progress," he wrote, "we had made in the consideration of the subjects of the protocol at the date of our adjournment gives warrant for the hope that we can determine many if not all of them."

In Sir Wilfrid Laurier's reply, written in February, 1903, there is this significant passage, which may be taken to represent the present official Canadian view of the situation:

> "I think it would be unadvisable to have the Commission meet officially, unless we are pretty sure in advance of being able to come to some conclusion on some important points. If you will permit me a suggestion; as soon as our Parliament has been prorogued, I will take an opportunity of asking you for a private interview, when we could survey the ground again and fix a date for the Commission to meet."

Mr. Fielding, the Canadian Minister of Finance, referring to this correspondence in the course of his speech on the Budget in the House of Commons—dealing particularly with trade relations, though his remarks applied equally to all outstanding questions between the two countries—thus interpreted Sir Wilfrid Laurier's letter:

> "Unless a preliminary discussion gives us some reasonable hope that the outcome of another meeting will be fairly satisfactory, there will be no desire on the part of this government to have the High Commission resume its sittings.
>
> "But, while we could not again approach our American friends with a request for reciprocity, yet, if they are disposed, in the light of recent events, to take a more liberal view of the trade relations between the two countries, and manifest a desire to have the High Commission reconvene for the purpose of trying in good faith to bring about a better state of affairs in this respect, it is due to them, as well as to our own self-respect, that we should meet them in a fair and generous spirit, and join in any reasonable effort to bring about such readjustment of the relations between Canada and the United States as will be honorable to both countries and advantageous to the interests of the people."

This was the official Canadian view in the spring of 1903; and, judging from subsequent utterances of members of the Dominion Government, in and out of Parliament, the situation remains practically unchanged. Apparently, it has not yet been found possible to arrange even the informal discussion which Sir Wilfrid Laurier and Mr. Fielding thought essential as a preliminary to the reopening of the Joint High Commission.

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So far as the general Canadian public are concerned, it is, I think, correct to say that they are not now keenly interested in the resumption of negotiations. There are, of course, here as in the United States, conflicting interests, especially as regards trade relations. Broadly speaking, Western Canada and the Maritime Provinces are inclined to favor closer trade relations with the United States, while Ontario and Quebec tend the other way. But, on the whole, the Canadian people, while not exactly satisfied with the *status quo,* are not at all sure that an international commission would succeed in bettering matters.

The rapid development of the country, since the last meeting of the Joint High Commission, has contributed very materially to this state of public opinion. The young Dominion has been gaining self-confidence during the last few years, and no longer feels dependent upon her big neighbor in any sense. She has crossed the threshold of an era of extraordinary prosperity; settlers are pouring into the West; the vast natural resources of the country are at last beginning to be seriously developed; new industries are springing up on every side; and the aggregate trade and revenue returns bulk larger every year.

At the same time, the United States market has been steadily decreasing in importance, so far as Canadian exports are concerned; while, on the other hand, Great Britain has as steadily increased her annual purchases from Canada; and new markets are constantly being opened up, in Europe, South America, the West Indies, Mexico, South Africa, Australasia and Japan.

What, after all, has Canada to gain from a reassembling of the Joint High Commission?

There is, of course, the somewhat ancient and threadbare plea of a better understanding with the United States; but, frankly, Canadians have learned to look with a certain amount of suspicion at this argument, which has done duty at the negotiation of every British-American treaty from 1783 down, Canadian territorial or other interests being time and again sacrificed by well-meaning British diplomats upon the altar of American friendship. Mr. Foster's eloquent appeal to Canada to do the neighborly thing in the matter of pelagic sealing is not new. It carries one back to similar appeals put forward by Mr. Fish in 1871, by Daniel Webster in 1842, and by Benjamin Franklin in 1783. Such appeals had been wonderfully successful in the past;

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but they fell upon more sympathetic and less critical ears than those of Sir Wilfrid Laurier.

Putting aside, then, this purely sentimental consideration, let us see what, from a practical point of view, Canada might reasonably hope to gain as a result of the deliberations of the Joint High Commission.

The questions demanding settlement might be expected to fall into three more or less distinct classes, *i. e.*: those in which a settlement would be of primary advantage to the United States; those whose settlement would be chiefly of advantage to Canada; and those in which the interests of both countries were involved, and might be met by a reciprocal agreement.

Taking, then, *seriatim*, the several matters with which the Joint High Commission would be required to deal, let us see how they fall into these three classes.

The Alaska boundary question is already disposed of—let us hope, forever. The question of the preservation of fish in contiguous inland waters, having been referred to a special international commission, is also out of the way. There remain the Bering Sea question; the bonding privilege; the Atlantic fisheries; alien labor legislation; war-ships on the Great Lakes; trade reciprocity; and two or three minor matters.

The Bering Sea seal fisheries, or, to be more explicit, the question of pelagic sealing, drops obviously into the first class. The United States is anxious that pelagic sealing—a legitimate and valuable Canadian industry—should be abolished, as it is believed, to quote the words of Mr. Foster, to be "destroying a valuable industry of our government." Here, then, is a matter in which the settlement asked for would be to the sole advantage of the United States. Canada would naturally require a *quid pro quo* in some other direction.

Take, then, the bonding privilege. That is a privilege that is popularly supposed, not only in the United States, but in Canada as well, to be solely to the advantage of Canada. That, of course, is not the case. While Canada undoubtedly derives a substantial advantage from the bonding privilege, the United States is equally the gainer. By reason of this privilege, the Canadian Pacific Railway is enabled to carry goods from Montreal, by the short line through Maine, to St. John, N. B., without payment of duty; and the Grand Trunk carries Canadian goods in bond to



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Portland for shipment to Europe.* The Canadian Northern enjoys a similar privilege in the west, where it cuts through the extreme corner of Minnesota.

On the other hand, any one who has travelled through the southeastern portion of Ontario, which cuts down like a wedge into the United States, just as Maine is thrust north into Canada, must have noticed the long, heavy trains taking the short route across the Niagara peninsula, from Chicago and other western American points to the Eastern States.

The bonding privilege applies also to foreign goods consigned to Canadian firms and shipped *viâ* New York or other American ports; as well as to goods consigned to United States firms and shipped *viâ* Canadian ports.

The Atlantic fisheries question belongs, without doubt, to the first class. The concessions asked for are all for the direct benefit of the United States, and anything designed as a return to Canada for fishing privileges in Canadian waters would have to be drawn from some other quarter.

Alien labor legislation is obviously a matter for reciprocal action. There can hardly be any question that the abandonment of such irritating and profitless legislation, and the freedom to Americans and Canadians alike to cross the international boundary at will, would be equally advantageous to both countries.

The privilege of building and maintaining, or merely building, war-ships on the Great Lakes, is a concession desired only by the United States, and is altogether to the disadvantage of Canada. It is hard to see how any concession on the part of the United States could compensate Canada for the constant menace of hostile war-ships, ready at any moment to strike her in her most vital and at the same time most vulnerable part.

There still remains what may be regarded as the *pièce de résistance* of the international banquet—reciprocity. Can it be seriously maintained that Canada is solely interested in a treaty of reciprocity with the United States? Hardly, from any point of view. Indeed, if one may judge from the present attitudes of

* Special stress has been laid upon the value of the privilege accorded Canada in respect of the Grand Trunk. While its value to Canada is unquestionable, it is well to remember that the Grand Trunk is of peculiar importance to Maine, as a check upon the monopolistic tendencies of the other roads that enter the State—a fact which the people of Maine thoroughly appreciate.

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the two countries toward the question, it would seem clear that Americans are more deeply interested in the negotiation of such a treaty than Canadians. It is altogether probable that, if a plebiscite could be taken of the entire population from the Gulf of Mexico to Dawson City, the result would reveal a surprising indifference on the part of the majority of the two peoples to the whole question of reciprocal trade relations. There are, however, interests arrayed strongly for and against such a policy in both countries; but, while the favorable interests in the United States are widespread and influential, in Canada they are not anything like so important, or so aggressive.

There was a time, and it is not so very long ago, when the very reverse was the case. The active desire for reciprocity was then all on the Canadian side of the boundary, while it was the American who was coy and hard to please. With the one solitary exception of the Reciprocity Treaty of 1854, Canada's friendly overtures have almost invariably been met with rebuffs, more or less courteous, at Washington.

In the light of the words of Henry Clay, in 1826, that "the Government of the United States has always been anxious that the trade between them and the British North-American Colonies should be placed on a liberal and equitable basis," and that "there has not been a moment since the adoption of the present Constitution when they were not willing to apply to it the principles of a fair reciprocity and equal competition," the interminable record of American rejection of Canadian offers seems extraordinary. Is it to be wondered at that Canada's patience broke down at last, and that, when Sir Wilfrid Laurier made the curt announcement that the Dominion would sue no more at Washington for reciprocity, his statement was received with a chorus of approval from one end of the country to the other?

At the same time, neither Sir Wilfrid Laurier nor any of his fellow countrymen is so short-sighted as to ignore the advantages of an equitable treaty of reciprocity with the United States. The desire for reciprocity in Canada, in the past, has been confined to neither of the great political parties, and it is still certain that a measure of freer trade would be acceptable to the great majority of Canadians.

It is, of course, clear to every intelligent student of present-day problems that, so far as Canada and the United States are

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concerned, the only possible measure of reciprocity is one confined to natural products, or, at the outside, to natural products and certain reductions in a limited list of manufactured products. Unrestricted reciprocity, once the accepted policy of a great political party in Canada, is no longer seriously considered. The Canadian attitude on this point was clearly and unequivocally stated by Sir Wilfrid Laurier in a letter to Mr. Wharton Barker in October, 1903.* From all indications, too, unrestricted reciprocity would be quite as unacceptable to the United States to-day as to Canada.

Let us see, then, on this basis of a limited reciprocity, what Canada has to offer the United States in return for a limited Canadian access to the United States market.

First of all, however, we must dispose of an argument that has been advanced time and again by American writers and public men, that the United States market of seventy-five millions (or as the case may have been) is of very much greater advantage to Canada than the Dominion market of five and a half millions can possibly be to the United States; in the same proportion, in fact, as the United States population bears to that of Canada. This traditional argument of the opponents of reciprocity (which we find current as far back as 1850, in President Taylor's message to Congress relative to the trade treaty then proposed) is a plausible theory which will not bear careful examination.

Many conditions, natural and artificial (the disproportion between the average United States and Canadian duties being, of course, an important factor),† combine to nullify the force of the argument so far as these countries are concerned; and, as a matter of fact, the balance of trade is now, and has been for many years past, entirely in favor of the United States; as much so, in fact, as the balance of trade between Canada and Great Britain is in favor of Canada.

The following figures, compiled from the latest official returns, bear eloquent testimony to the fact that Canada is one of the best customers the United States has, the world over.

* See NORTH AMERICAN REVIEW, March, 1904.

† The Canadian duties upon total imports from the United States average 12.05 per cent., and upon dutiable imports from the United States, 24.83 per cent.; while the United States duties upon total imports from Canada average 28 per cent., and upon dutiable imports, 50 per cent. In either case, the United States duties are twice as high as the Canadian.

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During the fiscal year ending 30th June, 1904, the value of United States exports to Canada amounted—according to the Canadian returns—to $143,000,000 (for home consumption, and exclusive of coin and bullion). The United States figures are, for some reason, considerably lower, $131,000,000. During the same period, the United States exported to all the other countries of North and South America, including Cuba and the West Indies, a total of $126,000,000. To France, her total exports amounted to $85,000,000; to Italy, $35,700,000; to Russia, $19,000,000; to Holland, $72,000,000; to Belgium, $40,800,000; to Japan, $24,900,000; to Australia, $27,000,000. The United States exports to Canada exceeded those to any other individual country in the world, with the two exceptions of Great Britain and Germany. She sold to Canada more than she sold to France, Italy and Russia combined; and, if you accept the Canadian returns, the Canadian market was worth as much to her as the combined markets of France, Russia, Denmark, Austro-Hungary, Spain and Portugal. It may be worth while to note in passing that the combined markets of the British Empire are worth to the United States $50,000,000 more than all the other markets of the world.

If in 1904 the Canadian market was so vitally important as a factor in the export trade of the United States, as the above figures show, is it not reasonable to assume that, as the years go by, the importance of that market will be steadily accentuated. Canada is growing rapidly and steadily. There is nothing unhealthy or unstable about this growth. It has behind it boundless resources, ample capital, and an energetic, self-reliant and ambitious people, who are year by year being recruited from the best classes of American, British and North European immigrants. The *per capita* wealth of the country is already the largest in the world. Poverty is almost unknown. There are to-day $500,000,000 of the people's savings in the government and chartered banks of the Dominion. It is clear, then, that Canada is a customer to whom the United States could well afford to offer generous inducements for a broadening of existing trade relations.

Take, then, the other side of the picture. What has the United States market been worth to Canada? For the same period, ending June 30th, 1904, the total exports of Canadian produce to the United States amounted to $66,800,000. The figures have been

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practically at a standstill for the last four years. The balance of trade in favor of the United States, according to the Canadian returns, amounted therefore to $76,000,000.

During the same period the value of Canadian exports to Great Britain was $110,000,000. The marked contrast between the value to Canada of the British and American markets is most strikingly shown when we compare the figures for products of the farm, including animals and their produce and agricultural products. The total figures for these in 1904, to Great Britain, were $85,000,000; during the same period, to the United States, they amounted to just $8,000,000.

In spite of the preference of thirty-three and a third per cent. granted by Canada to British goods entering the Dominion market, an examination of the statistical returns reveals the startling fact that Canada collected in 1904 $10,800,000 duty on $61,700,000 worth of British goods; while during the same period she collected $19,500,000 duty on $143,000,000 worth of United States goods. The average *ad valorem* rate of duty in the case of the United States goods was a trifle over 13.50 per cent., while on British goods it amounted to 17.50 per cent.

The explanation of this apparent anomaly is simple. Of the total imports from Great Britain, only $16,700,000 were on the free list, or 25 per cent.; while, of the imports from the United States, $65,400,000, or $4,000,000 in excess of the total British imports, were free—45 per cent! And, if we compare the free imports from Great Britain and the United States respectively with the total free imports into Canada, the result is still more striking. Great Britain got the benefit of only 17.73 per cent. of the total free list, while the United States absorbed 69.14 per cent.

Is it reasonable to suppose that Canada will rest content with this most unequal distribution of duties? At present, it does not suit the policy of the Dominion Government to make any material change in the tariff; but it would not be wise to assume that this attitude will necessarily be maintained after the tariff commission, which has just been appointed to examine the whole question of Canadian trade, has made its report. The United States would, doubtless, secure better terms by coming forward with a generous offer of reciprocity before, rather than after, this report has been made and considered; but such an offer, to be acceptable to Can-

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ada would have to be based on a much more equitable distribution of duties than at present exists between the two countries.

On the whole, it may be said that the people of Canada are willing, indeed anxious, to remove all causes of irritation between the Dominion and the United States, and to bring the two countries into as close a relationship as would be consistent with Canadian independence and loyalty to the British Empire. They would gladly promote the removal of restrictions on trade, so far as that may be done with due regard to the legitimate interests of their own country. They would welcome the reassembling of the Joint High Commission, provided there appeared substantial grounds for believing that the deliberations of the Commissioners would result in a treaty mutually satisfactory to the two countries, and one that would have a fair chance of ratification by the United States Senate; but they are extremely anxious to avoid another abortive meeting, with all its aftermath of irritation and international ill-will.

So far as the trade question is concerned—and that, after all, is the great question at issue,—it is possible, or even probable, that better and more lasting results might be attained by means of simultaneous tariff legislation, than by the cumbersome and uncertain machinery of an international commission. We have had ample proof in the past of the difficulties that beset the path of international commissions, no matter how broad-minded and well-intentioned the commissioners may be; and one need not emphasize the fact that it is easier for a camel to pass through a needle's eye than for an intricate commercial treaty to pass the United States Senate.

If the American and Canadian governments were to address themselves seriously—and in that spirit of fairness and liberality which Henry Clay so happily expressed—to the attainment of a reasonable measure of reciprocity—preparing the way, perhaps, by informal discussions between representatives of the two countries,—there is no reason to doubt that the Canadian and American tariffs might be gradually adjusted so as to meet equitably the broad needs of both countries, without doing any serious damage to the legitimate interests of either.

LAWRENCE J. BURPEE.

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# LORD CURZON: HIS RESIGNATION AND RECORD.

BY ANGLO-INDIAN.

THE public have taken some vague interest in a fierce controversy which has been raging in India. For the most part, they have an idea that Lord Kitchener, the great soldier, has been impeded by a lesser soldier, known as the Military Member, and they regard Lord Kitchener's victory as a fine defeat of the forces of red-tape and obstruction. Few have grasped the real point. The fight is not between Lord Kitchener and the Military Member of the Viceroy's Council. It is a desperate and vital conflict of principles. On the one side is the soldier who is no statesman; on the other, the statesman who, though no soldier, is a student of history and constitutional law. The one clamors for military efficiency, regardless of political cost. The other sees the huge danger to India and to the Empire of unbridled militarism.

There is an uneasy feeling among all sections of the 300 millions of India that the action of the British Government portends no good to India. It is not a mere reconstitution of the functions of the Viceroy's Councillors, a mere shifting of certain duties from the Military Member to the Commander-in-Chief. Lord Curzon has a genius for reconstitution, and would have brought out a workable scheme in a week. In his keen anxiety for efficiency and economy he would be no party to friction and waste of energy, and would never have tolerated the spectacle of a Commander-in-Chief being thwarted and hampered by a Military Member. His power of coordination, and his enormous success in working his Cabinet, are commonplaces in India; but, in the mandate, prompted by Lord Kitchener and issued by the Home Government, there was something which no

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skill could reconcile with the position of the Viceroy and the Government of India. That something is military autocracy. In his last telegram to the Secretary of State, Lord Curzon says: "When I left England, His Majesty's Government were fully aware that I disagreed wholly with proposals to change our military administration, and it was with that knowledge in their possession that I was permitted to return." Not only Lord Curzon, but all his colleagues—men of long and distinguished records—disagreed wholly with the proposals. Without any wish to be invidious, it may be said that those who understand the rudiments of Eastern polity, or who care greatly for the permanence of British rule in India, value the opinions of men like Sir Denzil Ibbetson on any Indian question—including the question of the political status of the Indian army—more highly than the immature and impressionist views of the Commander-in-Chief. A Commander-in-Chief who could seriously suggest that there should be native Field Batteries is hardly calculated to inspire much confidence in the minds of those who are anxiously watching the ever-anxious work of Indian administration.

It is useless, however, to discuss the decision of the Home Government. In the eyes of the Indians it has undoubtedly humbled and weakened, not only the Viceroy and his Government, but the Provincial Governments as well. It has exalted the Commander-in-Chief; and, much as he may deprecate the fact and modestly put aside Cæsar's crown, it has constituted him a military autocrat. A strong Viceroy may come again, whose personal influence may temper the force of the autocracy; but, as matters stand at present, there is a second King in Brentford, and the Indians have learned that the King's representative—the man they had admired, respected and feared for so many years—is, after all, the very subordinate servant of the strenuous Home Government which knows its own mind. They learn too that, unless the Viceroy is subordinate, and prepared to subordinate the interests of India to those of the Empire, he will not survive. For, after all, what are all this pother and controversy about? Has all this correspondence, so dangerous and indecorous, passed in order to rescue Lord Kitchener from the indignity of having his schemes commented on by officers under the rank of Lieutenant-General? There is something, surely, more serious than this. Is it to secure the defence of

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India? Well, there are those—competent and experienced men—who could prove that the old system was equal to any demand which the requirements of India could make. It is obvious that the necessities of the defence of the Empire have dictated this great change, or rather this entire destruction of existing administration, for there has been no real construction. India, under the ægis of Lord Kitchener, is destined to fight the battles from which the British conscript shrinks. It is an Imperial idea, but it is the Imperialism of a decadent democracy. Lord Curzon, who knows well the secrets of Indian finance, and knows well and sympathizes with the crying needs of Indian administration, sees how the revenues will be spent; he sees the money required for education, irrigation, railways, and police clutched by a confident Commander-in-chief. He does well to resign. He would have been wiser if he had never returned to India in November last, and those who urged him to rest on his laurels might have quoted Horace's lines—

> *"Atqui sciebat quae sibi barbarus*
> *Tortor pararet."*

It would have been wise and, indeed, kind if the Home Government had not sent him, for it is a pity to humiliate a great and devoted Englishman, and a danger to publish to the Indian world—curious and quick to draw inferences—a correspondence which will unsettle authority, encourage intrigue and dishearten loyalty. India is changing very fast, but it is still the continent of custom. The Military Department was a good old custom, and the five years' tenure of office by the Viceroy was another. It was a mistake to alter either. But if the Home Government had adhered to the latter, some change in the former might have come without those convulsions. An ordinary Viceroy new to office might have been more complaisant than Lord Curzon.

But Lord Curzon is not an ordinary Viceroy. He is a very extraordinary Viceroy, and a brief sketch of his leading measures may be of interest. It is no exaggeration to say that, if a Viceroy is willing and able, he can wield a power unknown in any other part of the world. Lord Curzon was able, and he greatly desired to leave India better than he found it. He toiled hard, and to a magnificent industry he brought wonderful powers of system and practical method. Men who have been brought into

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contact with him, officials, men of business, foreign travellers, Indian Chiefs and Indian commoners, have come away impressed with the man, his grasp, his knowledge and his power. And the experience of Lord Curzon's first term of office is that his reach was not above his grasp. He was a very Titan, undaunted, and brimming over with energy and pride in his work and position. Five short years were all too brief a time for the business he had in hand. He knew that, when once he set out on the sea of reform, the voyage would be long, and perhaps stormy, and that there would be no putting back to port. He had prepared himself by intense application, by travel and by reading; and every man who knew anything about the East was made to stand and deliver. From the moment when he took charge of his great office, to the day he submitted his resignation, he has been acquiring information, weighing, sifting, and tabulating; and, as each reform came up for final treatment, he had ready to hand all the facts that were essential. He knew his facts, and was never caught tripping by those who were watching him closely and jealously. He believed in the policy of taking the public into his confidence, and despised the official pose of reticent superiority. He liked to give reasons for the most trivial orders. The smallest and humblest Indian with a grievance—and the most humble had access to this untiring Viceroy—was told why it was impossible to grant him relief. Unconsciously, perhaps, he was following the lines of the great Mogul Emperors. He knew that the Indians can only understand and appreciate personal rule. Councils, Constitutions, Parliaments confuse their simple minds. They recognize Kingship and the delegated authority of a Viceroy; and it is necessary for the vitality of Government that the Viceroy should be a living, moving spirit. Lord Curzon certainly lived and moved. He penetrated to distant parts of the Indian Empire which had never been visited by Viceroys; he surprised clerks in their offices, and chiefs in their palaces; he explored mines and plantations; and, while entering with generous enthusiasm and sympathy into every human activity of modern India, political, commercial or religious, he did not neglect to pay homage to the illustrious past. His conservation of ancient monuments would have been enough to tax the energies of most Viceroys, but it was only one among the many other outside subjects to which Lord Curzon devoted his best and

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unflagging energies. But, above all, he plunged into the miseries of the famine districts, and laboriously inspected the hopeless camps, where men were dying of plague, despite the best efforts of the best skill available in India.

It may be hoped that other Viceroys as able and as industrious as Lord Curzon will devote their lives to the service of India, but it may be doubted whether any Viceroy of the future will impress his personality on the people to the same degree. His name is known in the most remote villages—away on the further frontiers of the Northwest, away down South in peaceful Travancore; Manipur talks of him, and the wild tribes of Assam will not forget him. He has been ubiquitous, and his distant tours have had abiding effects. His critics have scoffed at his activities, and have accused him of theatrical display, but they should remember that none of his activities has been purposeless or desultory, and that, if he was always Viceroy and never bated one particle of the prerogatives and pomps of his high position, he was in the right. A Viceroy of India, while he is in India and in public, can never afford to assume the rôle of a plain English nobleman. He is always on duty and always in full-dress. It would be easier and less wearing to throw off the heavy robes and to be as others are, but Lord Curzon never thought of his own ease. He was appointed to be Viceroy. He had his conceptions of Viceregal duty, and no criticism ever induced him to swerve from it. To those who lived for duty and had an enthusiasm for India he was the best and most kindly of friends. To the indifferent, the lazy and, above all, to those who by their actions besmirched the high name of Englishman he was a severe and an implacable foe. He leaves India almost worshipped by a few, admired by many and respected by all; but his life has been too strenuous and downright to have won for him the dubious guerdon of popularity. But, in the best sense of the term, his popularity will increase from the day on which he leaves India. His lot has been hard, and bad luck has dogged him in the shape of famine, plague and earthquake, but he has achieved much. He has strengthened the foundations of England's noblest possession, and, if his successors bring with them a fraction of Lord Curzon's devotion, self-sacrifice and righteousness, there need be no fear as to the permanence of British rule, and the real prosperity and progress of India.

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When elderly noblemen are appointed to be Governors-General of India they will usually call at the India Office, and descant on the wisdom and experience of the Secretary of State and his twelve mature Councillors. If these latter happen to be in, they will tell the Viceroy designate, not what he should do, but what he should avoid. He should avoid in India all religious or social questions; he should steer clear of anything that will bring up the racial problem; and, if he is wise, he will not rouse such sleeping dogs as education, police, the Berar question, and Native States generally. The policy inculcated on the good and normal proconsul is negative; but in Lord Curzon they had chanced on a very positive person. He has been careful not to touch social customs which are a part of the lives and the religions of the Indians, though many of his measures are destined to work changes in the social condition of the people. On the contrary, he evinced, by his action in mitigating the severity of the plague regulations, his sympathy for the customs of the people. He respected their bed-rock sentiment, and secured them in the privacy of their homes.

He did arouse the racial feeling, but he did it in a noble cause; and, when Lord Curzon's administration of India is worthily recorded, Englishmen and Americans will applaud the steadfast Viceroy who brought to justice evil-doers, despite their color and nationality. If ever a man has suffered for righteousness it is Lord Curzon, and in his efforts to be absolutely fair to the Indian and the British in India he has met, without quailing, invective and abuse from both. It is hard for one in the solitary, isolated position of a Viceroy to be disliked, and noisily disliked, and most men would have paused before taking a line which was certain to estrange the greater proportion of the Europeans in India, but Lord Curzon saw his duty, and went for it.

Education is an awkward question for statesmen in England. It is even more awkward in India, when the reformer is no opportunist, but a man with a mission, and most thoroughly in earnest. It is impossible in this article even to summarize the educational problems of India. For some seventy years, since the time of Lord Macaulay, efforts have been made to educate a small proportion of the people. The results are poor in quantity, and still poorer in quality. Want of money accounts for the lack in quantity; examinations run mad partly account for the

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defect in quality. In a vast continent like India there are, of course, splendid and encouraging examples of great and noble Indians who have risen superior to a bad system, and there are, happily, numerous instances of excellent results achieved by the influence of high-minded, courageous officials of the Educational Department, and of the devoted missionaries who are found in every part of India. There are many Indians of attainments and character who compare favorably with the best products of Western Universities. But they do not owe their excellence to the old educational system of India. It is precisely these men who are essential to our administration, for, in spite of the clamor of "India for the Indians," India is in reality administered by Indians under the supervision of a handful of Europeans. The people who have chiefly come under the influence of the faulty system of the last century are the inhabitants of Calcutta, Madras and Bombay; and the Bengalis of Calcutta greatly resented the innovations of a Viceroy steeped in traditions of Eton and Oxford. It is only natural that they should object. They were first in the field of education, such as it was, and education meant employment in the service of Government. The older men refused to believe that they had been educated on wrong lines, while the students saw in Lord Curzon's crusade a diminution of their loaves and fishes. So, when the celebrated resolution on education was published, reforming the governing bodies of the Universities, prescribing strict and regular inspection of colleges, and enjoining some measure of residence and a large measure of discipline, there was a howl of indignation, and Calcutta rocked with the noise and cries of the bereaved Bengalis. But the change has been made, and future generations of Indians, statesmen, lawyers, scientists and men of letters, will live to bless the daring Viceroy who lifted education out of the old clogging grooves, and showed them a path which will lead India to the highlands of the intellectual world. His opponents call him reactionary. The future will show. If reaction from the point of view of the Indians means the arrest of progress, then Lord Curzon is no reactionary. The ruler who wants India for the English would have left the Indian Universities to their fate, to be the laughing-stock of the earth, and would have paused before he embarked on a lavish expenditure on primary education. Japan has been much in the Indian mind of late. Lord

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Curzon knew Japan and her problems long before he became Viceroy of India.

Many of the best and most experienced of Indian administrators have watched the working of the Indian police system. They have deplored its defects, but they have hesitated to suggest remedies. They knew that the police affect the lives and happiness of the people of India more closely than any other Department of Government; and they knew that the police underlings were often corrupt and tyrannous, a terror to the quiet, honest villagers, and a grave discredit to Government. All recognized that the police force was underpaid, inadequately supervised, detested by the public and disparaged by the officials. But all recognized that on this huge force depended, in a great measure, the peace and security of India, and many good and wise men thought that the safest course was to leave things alone. One reason for this policy of inaction was the want of money. Now Lord Curzon's Viceroyalty, thanks to the change in the currency system, has been a period of prosperous budgets. He had the money, he saw the grave defects, and he applied the remedy. The police force has been entirely reorganized, and the pariah department has been placed on an honorable footing, and will attract good men by offering good pay and respectable prospects.

The Berar question has been alluded to as an instance of Lord Curzon's pluck, and his practice of grappling with problems which conservative Anglo-Indians pointed to as rocks to be avoided. This very old question involves treaties with the Nizam of Hyderabad, and involves also the good faith of the British Government. Perhaps among the many brilliant achievements of Lord Curzon's administration none is more satisfactory than the compact which he was enabled to make with the Nizam. The latter gains financially, and is freed from many embarrassments and anxieties, while the British Government secures in perpetuity the fertile Province of Berar. Lord Curzon was not afraid of opening the difficult question. He knew the right and only solution, and his personal qualities and his mastery of the subject convinced the Nizam that the solution was the best for him and his vast State. The whole affair is characteristic of Lord Curzon. Tell him that a question bristles with difficulties and that it has baffled generations of Indian statesmen, and he joyously responds to the challenge.

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The question of the Native States which rule one-fifth of the Continent of India is one of extreme delicacy and difficulty. It has perplexed most Viceroys, and is a puzzle to political students; and the policy—the very conservative policy of Indian administrators—has been to leave the Indian Princes severely alone, and to let them stew in their own juice. Provided that the States were isolated, and that there were no symptoms of joint action, nor growth of joint interests, all was well, and the feeble and indeterminate activities of the Chiefs were watched with complacent amusement by the serious and practical administrators on the Simla ridge. But this reactionary Viceroy, practical enough, believes in imagination, and has dreams of ruling India through the heart. He studies the Native States, visits every one of them, begins to talk of them as Feudatories, and hails the hard-working and conscientious Chiefs as his colleagues in the task of administration. He startles all India by a circular letter in which he gives his views regarding the tendency of a certain type of Chiefs to spend their time and their money in England and in Europe. He tells them that they cannot have it both ways; "they cannot remain *vis-à-vis* of the Empire, loyal subjects of the Queen, and *vis-à-vis* of their own people, frivolous or irresponsible despots." He encourages and stimulates them. He will waste nothing, and he sees in those Chiefs, with their great traditions, their vast possessions and their enormous latent powers, an undeveloped resource of Empire. Lord Dufferin, who was also a Viceroy of generous imagination, had won the love and respect of the Indian Princes, and they had given him troops for the defence of the Empire, a valuable and very efficient force known as the Imperial Service Troops. Lord Curzon loses no chance of improving and assisting this force; and, seizing the opportunity of the Peking outbreak, sends Imperial Service Troops to fight for the Empire in China.

He has no fear and no respect for the ancient scruples and suspicions. He calls all the Chiefs of India together to Delhi to do honor to their Emperor, King Edward. There is joint action, and out of joint action arise joint interests. There are meetings of old traditional foes; and Chiefs, who a few generations ago would have been at one another's throats, sit on Committees to consider schemes for the education of the Princes and aristocracy of India. Hereditary rivals, seated side by side, watch with

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pride the Imperial Cadet Corps in which there ride four ruling Chiefs. This is all reactionary, say the critics; but, in the matter of the Native Chiefs, as in the business of the University reform, it is the reaction of the liberal and progressive, and not the reaction of the conservative. The new departure in both cases is full of possibilities. In the hands of dull or unsympathetic rulers, it may be full of peril.

There is no space for the many achievements of Lord Curzon. He bequeaths to his successor a very arduous task; for the mere watching of Lord Curzon's reforms in their working will tax the energies of the best and most industrious of men. Irrigation and railways have found a foremost place in the Curzon programme, and the creation of a Department of Commerce points to a closer connection between the Indian Government and the great and growing interests of the vast trade of India. Lord Curzon's conception of his office was that it was the highest and most responsible post in the Empire, and that it would in the future demand the services of a first-rate statesman. Many questions are waiting for the new Viceroy which call for the exercise of the finest statecraft. One of these is the constitutional position of the Viceroy and his Council in conflict with a military autocracy.

India has been called the "Land of regrets." Lord Curzon will never regret the good labor which he has put into India. His health has suffered from devotion to duty, and the same devotion to duty has cast a shadow—only a passing shadow—over a glorious career. He has been edged out of office before he could give the finishing touches to many of his reforms, and he will bitterly regret his enforced absence when the Prince of Wales arrives in India. He will regret, too, that the foundation stone of the great Memorial to Queen Victoria will be laid when he is far away from the Capital which he has striven to embellish and improve. But to these bitter regrets there comes the timely and gracious antidote of the King's telegram of August 22nd: "Most warmly do I thank you for your invaluable services to your Sovereign and to your country, especially to the Indian Empire." The King always does and says the right thing, and we may feel sure that Lord Curzon has not been very wrong in standing up for the constitution against Cæsarism.

ANGLO-INDIAN.



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# SCIENCE AND IMMORTALITY: A REPLY.

BY W. H. MALLOCK.

LAST June, in the pages of this REVIEW, there appeared an article by Dr. J. Sanderson Christison, which aimed at showing the futility of all scientific objections to a belief in the immortality of the individual mind or life; and not that only, but to establish the contrary position also, that the facts of science exhibit its immortality as certain. I propose here briefly to examine Dr. Christison's arguments, not because I quarrel with the conclusion which he desires to reach; but because the manner in which he attempts to reach it is calculated to discredit it among those to whom he would commend it as reasonable.

His conclusion, as expressed by himself, takes the following form. The individual life or mind, whether in the single cell or in man's brain, is a hyperphysical entity, which enters the organism from without, animates it, uses it, and, when it decays, deserts it, but has no more connection with it than the fiddler has with his fiddle, or than the man who rings an electric bell has with the wire and battery. As to the human brain in particular, Dr. Christison winds up with observing: "Its various organized channels normally bear some correspondence of a 'press the button' order in relation to the activities of the mind: but it appears that it is only a conditional or cultivated correspondence. It is merely the relationship of master to servant." The servant decays and dies. The master—the independent entity—departs elsewhere, "retaining its own integrity."

This conclusion Dr. Christison seeks to establish by four lines of argument, which I will summarize in general terms.

(1) There is, no doubt, a certain uniformity in nature, to which the independence and immortality thus ascribed to the individual mind may seem at first sight to offer an unbelievable

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exception. And it is exceptional, no doubt—exceptional to a unique degree: but it is not, for that reason, any the less likely: "for nature," says Dr. Christison, "is constantly presenting us with exceptional phenomena which we can neither deny nor explain"—such, for instance, as "five-legged quadrupeds, albinos among negroes," and so forth: "and if an exception is possible at all, it is possible anywhere, and at any time . . . for, while we know what we expect, nothing is more certain than that we never know that what we expect will happen."

(2) The reason why such an exception as that of a multitude of individual minds "pressing the buttons" of nature, but not otherwise connected with it, seems to many so unlikely is the ridiculous overestimate of science that has prevailed during the last half-century. "Science," says Dr. Christison, "which has been defined as classified knowledge, is more correctly defined as the imperfect classification of imperfect knowledge": for even the sciences which are supposed to exhibit the uniformities of nature on the most imposing scale really present us with a spectacle of irregular breaks or gaps. This fact, he says, is specially illustrated by geology, which, having for years been regarded as revealing to us an orderly sequence of phenomena, is now admitted by the foremost authorities of to-day to be an "illustration of divine irregularities." Indeed, all the inductions of science, "commonly called 'the laws of nature,' are," he continues, "limited and fragmentary in their range." "It is, therefore," says Dr. Christison, "surely clear to all that science is in no position (on any *a priori* grounds) to declare that the immortality of the individual mind is impossible, or is even rendered unlikely, by what we know of "the scheme of nature."

(3) But science is unfitted to dogmatize as to the problems of life and mind, not only for the negative reason that its discoveries, such as they are, "are fragmentary and limited in their range," but for the positive reason also that the subject-matter of these discoveries—namely, the phenomena of the sensible universe—let us examine them never so completely, can give us no information with regard to their own sequences and interconnections. Thus, says Dr. Christison, the greatest men of science of to-day have completely thrown over the entire theory of evolution, with regard both to the development of the inorganic universe, and more especially that of living species. Further, when we come

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to the origin of life itself, the gap between the living and the lifeless, which ordinary observation detects, instead of growing narrower as scientific research proceeds, is every day exhibiting itself as more and more immeasurable. All the leading scientists of the present day have now agreed, says Dr. Christison, in making what he calls a final "announcement" that we witness in the living "germ-cell" the advent of some mysterious "entity," originating in a world alien to that of material nature, and alone giving life to a small piece of "dead matter," which would otherwise be nothing more than a mere "bundle of crystals."

(4) The most striking proof, however, that life is essentially independent of any organism is to be found in scientific observation of the brains of the higher animals, notably of man, and in concurrent observation of their mental life and behavior. Rash and foolish persons, not many years ago, imagined that they had established an identity or parallelism between the two. But now, says Dr. Christison, "*nous avons changé tout cela.*" The two do, indeed, coincide as a general rule, but only as the movements of a sleeve coincide with those of an arm. The sleeve may be torn away, and the arm remain as active as ever. This contention he supports by a number of examples, of which no more need be said till we come to consider them in detail.

We will now see what the above arguments come to, taking them, so far as is possible, in Dr. Christison's own order. They divide themselves into two groups, the first and the second dealing with the character of science generally, while the third and the fourth deal with special sets of phenomena.

We will start, as he himself does, with "exceptions" to the uniformities of nature, such as—to take two of his own examples—a white crow, or a cat with five legs. Such phenomena, he says, are admitted by every one as being "not in accordance with the usual order of nature," or as being "organic exceptions to nature's apparent rules." Now, such expressions as these may be permissible in ordinary conversation: but when used, as Dr. Christison uses them, in what purports to be serious argument, the only meaning which they possess is fundamentally false and misleading. In its colloquial sense, an exception, no doubt, means something which is not in accordance with the apparent rules of nature; but it means this only because the rules of nature, when referred to thus, are understood in a colloquial

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sense likewise. They merely stand for the *usual*, as ordinary experience gives it to us; and an exception to them is merely an occurrence which is at once comparatively rare, and out of our power to predict, because we do not know all its antecedents. But if the rules or laws of nature are understood in any serious sense, what Dr. Christison calls "exceptions" are not exceptions at all. His five-legged cats, and his white crows, though exceptional in his own experience, are not "exceptions in nature." They result from their antecedents in accordance with natural law, just as crows do which are black, or the cat in the nearest kitchen. The only difference between the two kinds of case is this, that the two sets of antecedents have not been entirely similar, though we may not be able to discover what the point of difference is.

Dr. Christison himself seems to anticipate some such criticism as this; and the next section of his argument is apparently designed to meet it. In what has been just urged—this is what his contention comes to—we are merely throwing the exceptional a step farther back; and are thus bringing ourselves to what is really his fundamental proposition. This is that, even if nature be fairly regular to-day, it was at all events a scene or a process of "divine irregularities" in the past, which are, by means of its general regularity to-day, constantly cropping up and asserting themselves in every kind of incalculable fashion; so that, to use Dr. Christison's own phrase, "while we know what we expect, nothing is more certain than that we never know that what we expect will happen." He not only asserts the past irregularity of nature to be a fact; but he maintains that science itself is at length becoming a reluctant witness to it. For this last statement he quotes two authorities, which he invites us to accept as typical of the grounds on which his case is founded. One of these is a passage, taken from a popular magazine, in which Professor Starr Jordan compares geologic science to "a book with half its leaves torn out, and the other half confused, displaced and blotted." The other is a single sentence of Professor Huxley's: "A law of nature is the product of a mental operation upon the facts of nature which come under our observation, and has no more existence outside of the mind than color has."

Now, neither of these two passages—the one being merely a piece of popular rhetoric, the other being the *obiter dictum* of a

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thinker whose philosophic instability was proverbial—could be taken as constituting a proof of the self-confessed bankruptcy of science, even if they bore the meaning which Dr. Christison attributes to them. On this point, however, there is no occasion to insist; for the fact is that they mean something wholly different. Professor Jordan's words do not mean that the geological evolution of the earth was less in accordance with law than science has been accustomed to consider it; but merely that the records of it, as accessible to us in geological strata and so forth, are not complete enough to enable us to be certain as to all its details. Dr. Christison's interpretation of the passage would be justifiable only on the assumption that all regularities are limited by our own powers of discovering them; so that, if we possessed only an "incomplete and blotted" copy of Euclid, this would constitute a proof that there was no order in geometry. This is, indeed, the precise assumption made by him—the precise assumption which he imagines himself to have caught Professor Huxley corroborating. But what Huxley really meant was merely a repetition of the assertion, which he launched so constantly at the head of his enemies, the theologians, to the effect that, in calling the uniformities of nature "laws," and thus suggesting to ourselves the idea of an external lawgiver, we are bewildering ourselves with an idea which has no warrant in fact. Instead of casting a doubt on the universal regularity of nature, he was seeking to represent it as a regularity which was self-existent, and required no will outside itself to account for it. Dr. Christison thus quotes Huxley as asserting the very thing that Huxley was denying, and the weakness of the doctrine which he is himself seeking to formulate is evident from his assertion that the so-called laws of nature are merely "condensed statements" of facts that have been "observed" to happen. From this conception of science, the whole essence of science has been eliminated. Science is not, as he says it is, condensed or tabulated observation. Science is essentially, as Herbert Spencer says, tabulated "prevision," which has tabulated observation as its basis. If it were not prevision—if it were a record of observed facts merely, and did not give us certainty before observation was possible—it would be nothing more than a dust-heap of useless gossip: and Dr. Christison's own science of medicine would be the random guesses of a savage. It is, of course, open

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to Dr. Christison to deny to all prevision any certainty that rises beyond a guess. All natural certainty and the validity of all induction rest, as Hume says, not on any formal reasoning, but on a "propensity" which inheres in man; but to assert, as Dr. Christison does, that what he calls "exceptional" events, the detailed observations of science, and the recent admissions of scientific men, give us warrant for supposing that the order of nature is less uniform than science has hitherto assumed it to be, is to use hasty and unconsidered language.

The nature of Dr. Christison's onslaught on the authority of science generally is illustrated farther when he proceeds to deal with the details connected more particularly with the question of life and mind. That those who believe the individual organic life to be the evolved product of the general substance of the universe are far from having mastered completely the details of the productive process, is no doubt perfectly true; but Dr. Christison does not content himself with saying that the reality of such a process has not yet been completely demonstrated. He declares that science has demonstrated that no such process is possible. We will glance at the various arguments by which he seeks to support this position; and we shall find that each one of them is either a direct misstatement of fact, or rests on a misconception of the most rudimentary philosophical principles.

He begins by asserting that the evolution of the organic from the inorganic has been robbed, during recent years, even of any antecedent probability, by the fact that men of science have now discarded the idea that such a thing as evolution exists, and are going back to the theory of "divine irregularities." Such a statement as this requires no answer.

Having disposed of the question of probabilities, he proceeds to the question of possibilities; and he argues that the inorganic world has now been shown by science to be, in its very nature, incompetent to produce organisms. For, the inorganic world, he says, is, according to science, made up of "dead" matter, which consists of a multitude of dead self-existing "entities"—in other words, of atoms: these entities being "immortal," and individually incapable of change. Associated with the atomic entities, but in itself wholly separate from them, is another entity, namely energy, which communicates motion to the atoms, but communicates nothing else. Statements such as these, in-

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stead of representing scientific thought, represent the very conceptions against which that thought protests. The beginning of Herbert Spencer's "First Principles" shows that, for science, matter and energy alike are merely aspects of a single undivided fact, the absolute nature of which is beyond our mental grasp, but which is, in some sense, however feebly we can imagine it, not universal deadness, but universal mind and action.

Let us now follow Dr. Christison from the possibilities of the question to its actualities. The individual mind appearing first in the germ-cell, the more minutely, he says, organic matter is analyzed, the more immeasurable does the gap between it and inorganic matter appear. Recent discoveries, however, as to the structure and genesis of the atom have shown it to possess certain qualities, at all events, which were supposed, till almost yesterday, to be peculiar to organic bodies; so that, whether the gap in question has been actually bridged or no, it has at all events become narrower than it was, instead of more immeasurable. Here again we are confronted with a direct, though of course an involuntary, misstatement. But, waiving this point, let us follow him in his farther contention that science, when examining the germ-cell on its own merits, has definitely discovered the presence in it of some mysterious agency which obviously belongs to some world other than the scientific universe. The typical scientific authorities which he here cites are as follows: "There is an absolute distinction," says Lord Kelvin, "between crystals and cells. Anything that crystallizes can be made by the chemist. Nothing approaching to the cell of a living creature has ever yet been made." Professor Ira Remsen says that the smallest particles of which the chemist can be directly cognizant "are immense as compared with those of which he has good reason to believe the various kinds of matter to be made up." Professor McKendrick says that "the phenomena of life depend on changes far too small to be seen even by the strongest magnification yet obtained by microscopes." And, finally, Dr. Christison quotes Professor Clerk-Maxwell as asserting that the germ-cell is too small to contain a sufficient number of molecules to account for all the characteristics that are transmitted; wherefore, the germ-cell "cannot be a purely material system." Such are the passages Dr. Christison cites to show that the most recent science has once for all declared that

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life neither does nor can arise out of any process belonging to the physical universe. Let us see what these passages really come to. The first passage taken from Lord Kelvin is merely part of an emphatic statement that no one has succeeded hitherto in producing life artificially. Dr. Christison takes this as equivalent to what he calls an "announcement" that, because life, as yet, has never been produced by man, it cannot be produced by nature, and must therefore be supernatural. He might as well say the same thing about gold. His misunderstanding of the other passages quoted by him is more curious still. Professor Remsen, Professor McKendrick and Professor Clerk-Maxwell are all quoted by him as though they were urging a common argument; whereas in reality the first two are directly contradicting the third. Clerk-Maxwell argues that life cannot be wholly material, because the number of particles contained in the single cell are too few to account for the complexity of vital phenomena. Professors Remsen and McKendrick argue that these phenomena pass our comprehension, because the particles which make up the cell, and to whose interaction life is due, are so minute and so incalculably numerous that they must always elude our observation. Dr. Christison seems unaware that the first of these statements, namely Maxwell's, is founded on a view as to atoms which by this time is wholly obsolete. He seems equally unaware that the second in any way differs from it; and that, whilst one of his authorities is worthless as a support for his own theory, the other two assume the very theory he is trying to demolish.

It remains for us to consider the final set of arguments adduced by him—namely those which rest on an examination of the brains of the higher animals. What Dr. Christison maintains that such an examination has proved is, that, though the brain is a mechanism consisting of numerous parts, each of which is adapted to the performance of a special function, these are merely instruments which have been elaborated for the convenience of an independent mind, and have no essential, and indeed no fixed, connection with it; so that, when one or more of them happen to get out of order, or are destroyed, the mind can transfer the duties of these parts to others, and Dr. Christison supports this contention by reference to a number of cases in which parts of the brain have been removed or become diseased, without producing any corresponding mental derangement.

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Now, it should be remembered that those who believe that the brain and the mind are inseparable do not maintain that every part of the brain-substance is vital, any more than they maintain the same thing with regard to the body generally. They maintain this with regard to certain parts only. If these be affected, they say, the mind is affected proportionately; and, in order to support their thesis, it is needless to maintain more. Farther, since the vital and the non-vital parts are contiguous, the value of all evidence with regard to cerebral injuries depends on the nicety with which the injured parts are discriminated. Such being the case, the larger number of Dr. Christison's instances are vitiated by the fact that, according to his own admission, they are wholly indeterminate in their character. He speaks of the "extensive destruction" of this or that cerebral area, or of lobes that can be cut off "almost completely," or of other lobes that may be "diseased more or less extensively," without injury to the mental activities with which it has been sought to identify them; but he does not venture beyond these general terms. Instances such as these prove nothing, and we must pass them by, confining ourselves to those with regard to which he speaks more precisely. These are five in number; and, in contrast to his treatment of the rest, he treats these with as much precision as under the circumstances was practicable. They are cases vouched for respectively by Professor Putnam, Dr. Pierce Bailey, Dr. W. Haddon, Professor Andral, and Dr. W. Ireland. In each of these cases there was extensive brain-disease, and we may admit (though even this seems doubtful) that in each case the mind remained normal. But the important point to be here remarked is that the extent of the disease is, in these cases, clearly specified; and in each case it was confined to one-half of the brain, or the band of fibres by which the two halves are joined. Here are the most definite evidences that Dr. Christison is able to produce; and the value of his general argument may be not unfairly judged by them. What then do these five examples prove? The brain is a double organ, like the organs of sight and hearing; and the fact that, when one-half of the brain is injured the mental activities need not be noticeably affected, no more proves that the mind is in any way independent of the brain, than the fact that a man may continue to see and hear, though one eye may be blind and one ear may be

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deaf, proves that sight and hearing are independent of eyes and ears.

It has seemed to me worth while to examine Dr. Christison's arguments, because they are, in respect of their general character, common to a very large class of persons, some of them possessing much, and some of them little, knowledge; but all of them bound together by a similar emotional temperament, and—if I may venture to say so—by certain mental and emotional defects. Their main desire is to vindicate the moral and religious value of life, and to discredit at all costs every argument that seems to them fatal to it. But in seeking, as they do, to achieve their object by a rush, or by a short cut, they are doing their own cause more harm than good. I will wind up these observations by asking Dr. Christison, and those who argue as he does, to consider what scheme of things—what sort of universe—would be presented to us, if their premises and arguments should really be accepted by mankind as valid. The number of cells in the brain of the stupidest man probably exceeds that of the entire population of the earth. Of all natural mechanisms, the brain, to which must be added the nervous system, is the most delicate and complicated; and yet, according to Dr. Christison and his friends, most of its delicacy is wasted, and its exquisite mechanism unnecessary. Shakespeare and St. Paul would have been what they actually were, had they had the brains of guinea-pigs, or next to no brains at all. In what light, then, are we to view the fact that some Power or other has been at the pains to develop the human brain as we know it, seeing that, according to Dr. Christison's reasoning, an incomparably simpler apparatus would be no less efficacious? Farther, if this argument for immortality is sound, it applies not to man only, but to every living thing. The bug, the louse, the tapeworm, the germ of every foul disease, is an eternal entity as much as any saint or hero; and the same arguments which give a man hope that he will one day meet again a beloved wife in heaven, must compel him to believe that he will probably encounter also every immortal microbe which may have been a cause of her premature death. There are serious and sober reasons for believing that immortality may be a fact; but they are certainly not the reasons on which Dr. Christison and his friends rely.

W. H. Mallock.

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# SOME RESULTS OF THE WAR.

BY SYDNEY BROOKS.

In any attempt to estimate the results of the war we must first make sure that the war is really over. Is the peace that was signed at Portsmouth on September 5th a lasting peace or a mere truce? Were the St. Petersburg papers right that affected to speak of it as nothing more than a temporary suspension of hostilities, a momentary step backwards to enable Russia to make a better jump later on? Or was the Mikado right when, as in his telegram of congratulations and thanks to President Roosevelt, he declared the peace to be "based on principles essential to the permanent welfare and tranquillity of the Far East"? Unless and until such questions are resolved, however tentatively, the essential basis for speculation on the consequences of this unique conflict must be lacking. Nor is it altogether easy to resolve them or to strike even an approximate balance of probabilities.

In England, I must say that opinion inclines overwhelmingly to a belief in the durability of the peace. Yet, even in England, there are those who sound a note of reasoned scepticism. They argue that Russia emerges from the Conference "with the prestige of her traditional powers of resistance not only confirmed but immensely enhanced"; that she will be more than ever convinced of her security from last humiliations and injuries "entailed by war upon Powers whose national organization can be shattered by a blow at the centre"; that, in short, she has not learned her lesson; that, though she has agreed to peace, it is with a mind full of *arrière-pensées,* and that there is "no inward renunciation, no real chastening, of her traditional ambition in the Far East." No political thinker, they assert, can believe that Russia proposes to be definitely content with the territorial limits into which she has been compressed. We are

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warned that the Siberian railway will be relaid and double-tracked from Moscow to Harbin, and that in any future war in the Far East Russian striking-power will be vastly increased. We are invited to remember that the motives which, at some future time, might impel Russia to a renewal of the struggle can only be justly appraised if we take into account both the magnitude of the prize for which she offered battle and all that the loss of it, if final and irreversible, means to her.

What does that loss amount to? It amounts to this: that Russia, after generations, centuries even, of peaceable, almost effortless, expansion across Northern Asia, and at the very moment when that process of expansion was about to receive its coping-stone, is now condemned to admit defeat at the hands of a despised Asiatic nation; to acknowledge herself no longer a part-proprietor in the fortunes of the Pacific Ocean, but only a visitor on sufferance; to see the vast and resplendent undertaking of the Siberian railway end fatuously in a *cul-de-sac,* and to feel that the domination of China has been wrenched from her. Port Arthur was far more than the symbol of Russian power in the Far East. It marked the triumph of that ambition which, since the days of Peter the Great, has animated all Russian policy. At Port Arthur alone had Russia established herself by the side of the warm waters; and the loss of it tragically duplicates for Russia in the Far East the very dangers that threaten her on the Persian Gulf, the Bosporus and the Baltic. She remains a virtually landlocked State. The bonds that but two years ago seemed at last to have been severed, have been riveted on anew. The only base from which Russia could defend and promote her interests and ambitions throughout China and the Pacific has been snatched from her and occupied by her conqueror and rival.

Is it to be supposed that Russia will forever resign herself to the ignominy, the cramping limitations, of such a fate? Her future effectiveness in the Far East, her influence over China, and almost her very existence as a naval Power in the Pacific depend upon its reversal. To her time is nothing; the lure that for centuries has drawn her towards the Far East is much.

There is, admittedly, a certain force in such arguments as these. But I think it can be shown that there is a greater force in the facts which they overlook. More than a little weight, for instance, should be attached to the unanimity with which the world

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has recognized the reasonableness of the peace. It is a peace that frustrates great ambitions and brings to partial or total ruin many great schemes of policy and material enterprise; but it does so without straining the logic of accomplished facts, and without pushing either the rights or the opportunities of the victor to the uttermost point. It is a peace such as Bismarck made with Austria after expelling her from the Germanic confederation—a peace, that is, framed to save the self-respect of the vanquished nation, to reconcile her to the inevitable, and to prepare the way for a restitution of cordiality and confidence. Not only is this the opinion of the world, but also of Russia herself. Russia admitted, in a very practical way, the essential justice of all the vital Japanese demands by agreeing to them almost without discussion or objection. She readily recognized Japan's predominant interests in Corea, handed over to her the lease of Port Arthur, and undertook to evacuate Manchuria. So vast a surrender—involving the giving up of almost everything Russia has striven for in the Far East—could scarcely have been made so easily had it not been felt that it was not merely unavoidable, but the just and necessary result of the war. To have yielded all this does not seem, as a matter of fact, to have humiliated Russia so much as her successful refusal to pay an indemnity seems to have rejoiced her. That is a happy omen. A peace is all the more likely to be enduring when the vanquished belligerent is obliged to confess that it might have been worse. The absence throughout Russia of any resentment against Japan, the consolation of having on one or two minor points achieved diplomatic successes and forced Japan to give way, and the essentially generous and responsive characters of both peoples, are all in their way guarantees of the stability of the peace.

But a far more effective guarantee is to be found in the internal state of Russia. The extent to which the domestic ferment hampered the prosecution of the war and induced peace has, I believe, been greatly exaggerated. At the same time, the war has made it forever impossible to separate the external fortunes of Russia from her internal conditions; and for the latter the first and decisive necessity is a long period of recuperation. We must remember that what the reformers at bottom contend is that domestic development, from now onwards, must precede foreign exploitation. To a policy of aggression and expansion

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they oppose a policy of consolidation. Russia to be strong abroad must first be contented and, if possible, prosperous at home. But consolidation, as the reformers use the word, can only mean a contraction of Russia's foreign activities, Russian finances being totally unable to pursue simultaneously external expansion and internal improvement. I have elsewhere argued that, so far as Russia is concerned, an unbreakable chain of cause and effect links constitutional reform with economic reform, and both with foreign policy. The first will be futile without the second, and the second impossible while the third remains unchanged. Every sign and every probability point to the conclusion that, for many years to come, Russia's main preoccupation must be of a domestic character; and it seems almost certain that a struggle has been begun which will not be abandoned until Russians are in possession of the elementary liberties of worshipping, speaking, writing, meeting and moving as they please; until they are allowed a real share in the direction of national policy; and until they cease to be the victims of a system that prefers an empty colonial expansion to the well-being of the people at home. Even with these elementary liberties secured, the tangible promotion of national well-being will not have been brought much nearer. The national well-being of Russia cannot be promoted unless taxation is reduced, or unless the product of taxation is diverted from strategical and imperial to social and domestic purposes; and neither course is possible without a sweeping change in the scope of Russian expansion and foreign policy. Until conditions at home have become more stable, until the intellectuals have been pacified, until the peasant is relieved from the necessity of selling for money what he needs for food, Russia, one may confidently predict, will be forced to confine herself to domestic affairs.

That a regenerated Russia, ruled, or partially ruled, by popular opinion, would ultimately prove less aggressive or less Imperialistic than the bureaucratic Russia of to-day, there is no reason to believe. Sooner or later, we may be sure, Russian expansion will resume its course. Whither will that course lie? To such a question there can but be the broad answer which is supplied by all Russian history—it will lie along the line of least resistance. But there can be very little difficulty in proving that Manchuria and the Far East are the line, not of least but of greatest resistance, and that even towards Constantinople, even

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towards the Indian frontier, Russia would not encounter obstacles one-half as forbidding as those that time must infallibly array against her in the Far East. If we imagine a renewal of the recent struggle twenty, thirty or forty years hence, we may be dealing in speculation with a time to which the Anglo-Japanese Alliance in its new and more vigorous form does not apply. I say we may be, because even that is not a certainty. The community of political interests that unites Great Britain and Japan is so strong that, even fifty years hence, the two Powers may be guaranteeing by the naval and military might of both the Asiatic possessions of each. What, at any rate, may be regarded as axiomatic is that, while that Alliance endures and binds both the high contracting Powers to come to one another's assistance when either is attacked in Asia by even a single enemy, Russia, so far as the Far East is concerned, is pegged down to peace.

But, leaving the Alliance altogether on one side, and counting up Russia's chances of success in any future war with Japan as though Great Britain did not exist, it must be very clear that the conditions of a Russo-Japanese struggle can never again be as favorable to Russia as they have been during the past two years. For in the future Japan will be able to hurl against her foe the endless armies of China. The Occident is still curiously sceptical of the Chinese ability to fight, just as it used to be sceptical of the ability of any Oriental people to handle so complicated a machine as a battle-ship, or to learn more than the alphabet of applied science. But that the Chinese can fight was sufficiently proved during the Taeping rebellion; that they are willing to receive from Japan the training, and are able to receive from her the vital touch, that differentiate an army from a mob, seems established by all that is known of the discipline, equipment and morale of General Ma's army; and that Peking will seek to flood Manchuria with colonists, and will henceforward zealously guard the province that contains the ancestral tombs of the Imperial House of China may also be taken for granted. It is a reasonable assumption that, before restoring Manchuria to China, Japan will take every precaution to insure the safety of its frontiers; will organize, discipline and reinvigorate the Chinese forces; and will in time convert them into a formidable instrument of defence, capable, in case of need, of harassing to an indefinite extent the Russian communications and system of supplies. A

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double instead of a single line from Moscow to Harbin would not, therefore, greatly benefit the Russians if it merely brought them into the midst of tens of thousands of Chinese through whom a way would have to be cut. And even then Russia's difficulties would have no more than begun. To reach Port Arthur—and Port Arthur alone would be her objective—she would have to fight and march, march and fight, from Harbin to the sea. She would have no railways; they would all be in Chinese or Japanese hands. Being forever deprived of an effective naval base in the Far East—for half-frozen Vladivostok is not an effective base—she could neither challenge the Japanese navy, except in the feckless Rojestvensky fashion, nor interrupt for a moment the troops and supplies that would be poured on to the mainland. Behind her would be the Chinese myriads; before her would be the Japanese armies; and to the remnants who escaped or broke through both the Chinese and Japanese would fall the task of besieging and capturing Port Arthur. All and more than all that the Japanese have accomplished in the last nineteen months the Russians would have to accomplish under circumstances of infinitely greater difficulty. The thing, in short, is so impossible that it is doubtful whether it would ever be attempted and certain that it would never succeed.

The peace, then, will endure. On the edge of Asia, and in a position to dominate that ocean which more and more is becoming the battle-ground of the world's politics, a new Power is irrevocably established. Of that Power, as I have before now ventured to suggest in some English journals, very little is really known. Her rise has been too swift, too secret and too dazzling to enable the world to gauge her aspirations and ultimate ambitions. We know, indeed, that in all or most of the elements of strength she is as strong as any Power in the world. The revealing light of war has given us the partial measure of her capacities and some glimpses of her hidden character. She has placed a million soldiers on the mainland of Asia, and every one of those soldiers seems to be a Bayard. Their cheerful and passionate contempt for death, their capacity to sustain every extreme of climate and every kind of fatigue, added to their intelligence and their bravery, make the experts doubt whether as units the Japanese soldiers have, or ever have had, any superiors. We have seen, too, that Japan can display an administrative efficiency which is not



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only unique in Asiatic history, but, except perhaps in Germany, unrivalled anywhere. We know also that her officers are capable of adding to a groundwork of administrative perfection the flexibility and the intellectual qualities of the highest generalship. And what applies to the army applies even more pertinently to the navy. On both elements Japan stands forth so powerfully equipped and so protected by her geographical position as to be virtually invulnerable except by China, whom she will control, and by Russia, who will not again venture to attack her. In a few years' time she will have a fleet thrice as big as Togo's, an army improved, if that be possible, by the experience of the past two years, and a material basis and reserve in Corea and Manchuria infinitely greater than any she now possesses.

And to say even this much is still to leave unmentioned the prime and imperishable sources of her strength. It has been borne in upon Europe and America by the experiences of the war that there is to-day no Western nation with a fibre so hardy, with the spirit of unity so intensive and so extensive, with the capacity for self-surrender at once so disciplined and so instinctive, and with the sense of obligation so universal and positive, as Japan's. To a degree that the Occident not only cannot approach but finds it hard even to realize, Japan is a State animated by the passion of private sacrifice for public ends. Europe and America in fact have to acknowledge, and to rearrange their diplomacy by the acknowledgment, that Japan is a Power of the very first class, secretive, incognizable, perspicacious, resolute, indomitable, equipped with every quality and every resource that can make a nation victorious and keep her great. They have also to face and acknowledge this unquestionable and staggering fact that Asia has found a leader, and that something like a thrill of recognition and understanding has passed from Cape Comorin to Peking. I read a few months ago the translation of a letter written to a well-known Persian newspaper by a Persian patriot. In it the writer suggested to his countrymen the advantages of a commercial alliance between Japan and Persia; of making their military purchases in Japan; of sending Persian students to Japan for military, naval and other kinds of education; and of requisitioning the services of Japanese officers for the training of Persian troops in the arts of modern warfare. In India, the effect of the rise of Japan has been not only to increase the num-

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ber of Indian students who repair to Tokyo for instruction, but to suggest a parallel that the English rulers of the country cannot view without some disquietude. Indian opinion has, I believe, warmly approved the Anglo-Japanese Alliance as an example of English liberality and of English preference for the realities over the shams of civilization; but, undoubtedly, the Japanese successes have very widely sown the idea that, if they too were "free," Indians might do as the Japanese have done. But it is, of course, in China that the results of the victory of Japan will be deepest and most numerous. Already there are signs of a new and incalculable spirit—witness the boldness of the boycott of American goods, the cancellation of the Canton-Hankow Railway contract, the insistence with which China pressed her claim to be represented at the Portsmouth Conference, the edict adumbrating a Parliament twelve years hence, the beginnings of military reorganization, and the swiftly growing number of Chinese students who are now scattering over Japan, America and Europe. The "yellow peril," as the Kaiser figures it, must always remain a mere nightmare; but that Japan will seek to rouse and harness the vast potential energy of China, to organize her resources and to shape her policy, seems not only natural but necessary. And the resurrection of China, if it be real and thorough—as it certainly will be, if the Japanese have anything to do with it—may mean that the next Boxer rising will prove successful, and must mean that the methods and spirit of Western dealings with Peking must be revolutionized.

Nothing can be more foolish than to suppose that Japan will not have ambitions, a policy and a dignity of her own. Her dignity will make it impossible for her to remain eternally quiescent under the exclusion laws that are enforced against her subjects in Australia, British Columbia, Hawaii and the United States. She might not think it worth a war, if remonstrances and appeals failed to get the offending statutes altered or repealed; but she might very well come to the conclusion that this is one of the matters in which reciprocity should prevail. She might, therefore, as China has begun to do, penalize the trade or the subjects, or both, of the countries that discriminated against Japanese immigrants; and if once Japan's voice were raised in a demand that Asiatics, Americans and Europeans should be treated, and should treat one another, alike, it would be impossible to disre-

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gard it. That her ambitions are likely to take a form that would cause anxiety to Germany as the owner of Kiao-chow, to France as the owner of Indo-China, or to the United States as the owner of the Philippines, I cannot bring myself to believe. For many years to come, the Anglo-Japanese Alliance will be a specific guarantee for the stability of the *status quo* in and around Asia; and for yet more distant years Japan will still be developing that huge and fruitful Empire that has come to her as the spoils of war, will still be consolidating her interests in China, and will still be straining to undersell all competitors and to secure the virtual monopoly of the Chinese trade. That may not be a prospect that is particularly pleasing either to Europe or to America; but, at least, it relegates into the remote background the prospects of a policy of aggression. For our day and generation, at the very least, and probably for much longer, Japan's energies will be too much engrossed with the duties and opportunities that lie immediately ahead of her to trouble herself about the further acquisitions that might accrue from a programme of adventure. Nor is there anything in the Japanese character, so far as it has been revealed to us, that at all squares with the aggressive intentions imputed to her. On the contrary, nothing would seem more alien to that character than those intentions. Japan fought for security and for room. She has won both. She will entrench her security so that it can never again be jeopardized, and she will develop her new dominions to the uttermost. In doing so, she may run grave moral risks. The time may come when she may look back upon to-day as the brightest moment of her history. The materialism of prosperity and success, and the class contentiousness that it swiftly develops, are the foes from whom she has most to fear. They may relax the national fibre, make inroads on that sense of national cohesion now so proudly vivid, and place a set of lower ideals in competition with the spirit of pristine patriotism. This is Japan's Elizabethan epoch. We shall not know till she has been tested by generations of success whether the self-indulgence, the vulgarity, and the party spirit of the Victorian Age, are also to be hers. The lines of her development from now onwards are complex and obscure; but those who predict that she will prove a sort of Genghis Khan among nations have surely the flimsiest premises of all to stand on.

SYDNEY BROOKS.

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# MARRIAGE AND DIVORCE: THE LETTER OF THE LAW.

BY NORMA W. JONES.

EVERY little while, almost periodically it seems, a wave of virtue sweeps over the land on the subject of divorce. Some, with whom fate has dealt kindly, or to whom Providence, or circumstance, has given companions who happen to be congenial to them, are aroused to terrible apprehension over the state of the country at large, because some couples, more or less prominent, have felt obliged to appeal to the courts to sever their marital bonds. These talk and write about amending the laws; no divorce shall be granted in any State for any cause save one, the so-called Scriptural one. Church councils are held; no divorced person must be countenanced; no minister of the Gospel must dare remarry any such, no matter what the circumstances may be. Some even go so far as to contend that no person who has ever been divorced shall be received into, or allowed to remain in, the Church, or to partake of the Holy Communion.

They search the Scriptures, and pick out what they consider the Divine Law on the subject, give their own interpretation to it, and then say that every one shall be held to the *letter of it*, or be excommunicated from the Church and from all decent society.

They quote words which may have been spoken by Christ, but which were addressed to those whose customs and circumstances were far different from those of the men and women of to-day. Eighteen centuries have made a vast difference in the status of women, both under the civil and moral law. Nearly all the Churches act upon many passages of the Bible more liberally —for instance, the one relating to women in the churches: "Let your women keep silence in the churches, for it is not permitted unto them to speak." "If they want any information,

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let them ask their husbands at home," etc. In how many of the best churches in the land have these teachings been abrogated entirely, women being foremost among their speakers and workers, many even filling pulpits of their own. So, we believe and claim, should the teachings as to marriage and divorce be somewhat modified, in judging cases at the present day.

The text on which most stress is laid is this: "What, therefore, God hath joined together, let not man put asunder."

Permit us to ask, what means have we of knowing whom God really joins together? We have never found any formula laid down in the Bible for a marriage service; so what constitutes true marriage in His sight? Surely we cannot think that *all* who stand up before His ministers and take upon themselves the vows of the marriage service, as arranged by the Church and by the customs of society, can be said to be joined by *God!*

Think of the unworthy motives that actuate many of those who assume the marriage relation; of the "*mariages de convenance,*" or those for money, or title, or position.

Or, coming down to every-day life, what of the women and girls who marry almost the first man who asks them in the hope of bettering their condition, or to escape unpleasant surroundings at home; and what of the men who marry just to get a servant or a housekeeper? The love and respect, the *true union of hearts,* which alone should constitute true marriage, are wholly lacking in many such cases.

The same Bible, which is so much quoted, also says: "Man looketh upon the outward appearance, but God pondereth the heart." Taking this as a test, what man, be he minister or layman, is to be the judge as to *whom God hath joined together,* and make that other text, so often quoted, an iron-clad rule to fit every case? After all, it is but a man who reads over to the couples who stand before him the vows, formulated by man, to which they may assent with their lips while their hearts may have no part in them. This is generally done in God's name and under the most solemn circumstances, it is true; but, for all that, God, who looks at the heart, may not give His sanction or approval.

If, after a while, it is found that a terrible mistake has been made, that one is utterly unworthy and makes no effort to live up to the vows taken, why should the other be bound, either to a life of torture, or to a life of loneliness?

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Why would it not be as well to go again before one of God's ministers, and acquaint him with the true state of things; and if he is fully assured that there is no possibility of their living together in peace and harmony, or if there is crime on the part of the one which would drag the other down in the social scale and bring a blight upon the innocent children that might be born to them, why could not the minister, with the sanction of the civil court, dissolve the bond, in as solemn a manner as that in which it was made, and allow the innocent party to go free? Would they not, under such circumstances, be as much put asunder by God as they were joined by Him?

We speak in all reverence. We know it would not be well to make the laws relating to marriage and divorce too lax; but we know as well that there is something wrong with our social system,—that there are thousands of unhappy, mismated couples in this land of ours and in other lands, from the highest circles down to the lowest.

Not much oftener do we read of a divorce, here and there, than we read of some man murdering his wife in cold blood, or of some woman murdering her husband, because the relations between them had grown unendurable. Not many months since two men were hanged on the same day, in neighboring States, for wife murder, and at the same time two women were under sentence of death for the murder of their husbands.

In one of the cases, the wife murdered, a lovely woman, the devoted mother of four children, when asked before the culmination of the tragedy why she did not leave her brute of a husband, replied that "there was such a prejudice against divorce," that "the woman was nearly always blamed." And so she remained, clinging to her vows long after her husband had ruthlessly broken his, until she met her horrible fate at his hands; and the children, deprived of both parents, were left to the mercy of the world, with a far worse stigma than divorce upon their name. How much better would it have been for the devoted mother to have taken the children and sought protection and freedom through the courts!

So long as human nature is what it is, honorable divorce is, we contend, almost a necessity, and those who are forced to take this step should not be judged too harshly.

If mutual love and respect do not hold two people together in

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this closest of all relations, no law, human or Divine, will be able to do so. The outward semblance may be maintained, but it is a hollow mockery and a sham, which, we should think, would be a greater sin in the sight of God than a dissolution of the bond. If both would only live up to their marriage contract, were truthful, honest and upright in their dealings with each other and with the world,—above all, if they lived up to the teachings of the Golden Rule, we venture to say there would be few, if any, divorces.

We believe that married life is the true state for both men and women, that no one can reach his, or her, highest development who goes through this world alone, or unmated; neither can there be any true happiness in those relations between the sexes which have not the approval of society and will not allow the conscience to be at peace with God and man. So long, however, as human nature is so frail, temperaments so different, early training and circumstances so utterly diverse, it is well-nigh impossible for some couples to get along peaceably in this closest of all relationships. Their days and nights are filled with bickerings and discussions, till life is a burden to each. Why should they be held together by either civil or Divine law?

Again, in the laws of nearly all states and lands there are the most stringent provisions for protecting the people against false pretences. A contract entered into under false pretence, by either party to it, is promptly declared null and void upon proof of the same. Why, then, should not the question of false pretences in winning a husband or a wife be taken into account, and the same protection be accorded in dealing with this most vital of all matters pertaining to the human race? How many men, how many women, marry, carefully concealing some physical defect, some hidden disease perhaps, some mental or moral trait, which must inevitably cause bitter disappointment, if it does not completely wreck the happiness of those to whom they thus solemnly bind themselves for life. Before marriage, it is the rule for both men and women to exhibit to each other only the best side of their natures, their most lovable traits. They appear to be congenial; each character seems the counterpart, or complement, of the other; but the mantle of beauty, which, mayhap, was all pretence, or the glamour of fancy, falls away in the prosaic atmosphere of married life.

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It is impossible to love that which is unlovely, to respect that which is unworthy, to honor that which is not honorable; and a marriage founded in this way on false pretences should be declared null and void as soon as possible.

No two people should be compelled to live together in this closest of all relationships, unless they can do so in peace and happiness, unless each can conduce to the other's welfare. We are forced to agree with the late Robert G. Ingersoll in one of his many sayings, if in no more, that "no children should be brought into the world that are not the children of love and welcomed by both parents." The failure to live up to this rule has given to the world, we truly believe, its vicious and criminal classes.

It is on account of the children that the strongest plea is made by those who cry "No divorce"; but what can we expect of children reared in homes where the parents are constantly quarrelling and bickering, or more disgraceful scenes are enacted? Better, a thousand times, that such couples should separate, that the children born to them be given to the one more worthy, or better capable of taking care of them, or that they should be placed by the court under capable guardianship.

There are other things which should entitle unhappy couples to fair and honorable separation, such as crime against the laws of the land, especially of the father, which entails on innocent children a tarnished name and reputation; also drunkenness, than which no fouler blot can rest upon a home. If there is a person, or persons, on this earth to be pitied it is a drunkard's wife and children, or, a rarer case, the sober husband of a wife addicted to drink or drugs. Such couples should not be held together in the marriage relation an hour longer than the unselfish love of the one or the other may dictate, or after the innocent one is convinced that further efforts at reformation are useless.

There are still other causes that conduce to unhappiness in the married life,—causes that cannot be paraded before the world and yet may render life together utterly miserable. No one can know so well as the parties themselves the true state of things, and they should be the best judges in such a vital affair.

Only those who are united in heart by the purest love and affection, who are thoroughly congenial, who would bear and condone almost anything, rather than be separated, can be truly said to be united by God. It *would* be a crime for *man* to separate such,

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as is sometimes done; and this is, most probably, all that is meant by the sentence so often quoted: "What, therefore, God hath joined together, let not man put asunder."

In this connection we will quote what an eminent Judge said in an address on this subject some years ago:

"Since the Reformation, marriage has been regarded as a civil contract, and the 'holiness' of the nuptial bond is a matter simply of ecclesiastical law. 'Divorce,' as mentioned in the Bible, has nothing in common with our ideas of divorce, where a tribunal is established to hear and weigh evidence, and where separation cannot be decreed without proper causes and on a fair hearing. The divorce which Christ referred to was the arbitrary will of a man to put away his wife for reasons sufficient to himself and from which 'bill of divorcement' the woman had no appeal. While Christ did not approve of separation, He acknowledged that Moses had enacted certain laws 'because of the hardness of their hearts,' thus recognizing the fact that men, being mortal and sinful, must be subject to laws assuming that condition. It is plain that Christ's teachings on divorce were necessarily based on the then existing Mosaic law and the iniquitous 'bill of divorcement,' which was manifestly unjust and arbitrary. Civil law, to-day, regards such divorce as did Christ, and no man is allowed to divorce his wife at pleasure. I do not believe that we have a correct translation of the words: 'What, therefore, God hath joined together let not man put asunder'; for, such being true, every marriage is of God, and the necessity for divorce and increasing demand for it is inexplicable. Rather it should read: 'Whom, therefore, God hath joined together let not *the man* put asunder.' The law, as laid down by the Saviour, on marriage and divorce, was an ideal law, fit for the government of angels, or angelic men; but as men are not angels, as all marriages are not holy, nor of God, and certain marital wrongs, not specified by Christ or His apostles, are unbearable, therefore men and women are entitled to honorable, legal divorcement."

The proposition to free them and yet prevent them from forming other ties which might prove most happy and congenial, is most cruel and unjust, and it will inevitably lead many away from the Church and into relations far more questionable than honorable remarriage would be.

NORMA W. JONES.

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# THE PUBLIC AND THE COAL CONFLICT.

BY HENRY EDWARD ROOD.

I AM one of some seventy-odd millions of Americans who use anthracite coal, and who, in consequence, have direct and personal interest in John Mitchell's recent threat (as reported in newspaper despatches from Tamaqua and Shamokin, Pennsylvania), to create another famine in fuel next year, unless the anthracite mine-workers are granted an eight-hours working day, and, moreover, unless the United Mine Workers of America are "recognized"; by which, I suppose, Mr. Mitchell means that none but members of that labor-union are to be employed in the mines. Now, I have no more interest in John Mitchell than in John Smith, or Bill Jones,—so long as he refrains from interfering with my inalienable right to life, liberty, and the pursuit of happiness. But when any man publicly serves notice that, unless (or until) the coal operators grant his demands, he will deprive me of fuel in 1906, (thereby endangering the health and life of my wife and my children), I have a personal account to settle with him.

I can get along in reasonable comfort without silk underwear, or champagne, or diamond shirt-studs. But I don't propose to get along without coal, or flour or salt. If a supposititious Hiram Doolittle should absolutely shut down the production of flour or salt for any conceivable purpose; if, when I demanded these necessaries to health, he should laugh in my face, I think I should have something to say to Mr. Doolittle; and I should feel justified in making sure that he never would be able to repeat the outrage.

As to the merits of Mr. Mitchell's demands, on behalf of the United Mine Workers, I am not prepared to speak; nor of the coal operators' side of the question. I have little more than an

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academic interest in their endless controversy, although, of course, like other good citizens, I earnestly desire justice for both operators and workers of the mines. I belong to the third party to this anthracite question—the general public; the party which, in the end, undergoes the real suffering as well as the real expense attendant upon strikes. And, like seventy million of my brethren and sisters, I am getting somewhat tired of Mr. Mitchell's threat to make us freeze; to deprive many of us of our livelihood by shutting down factories and mills; to lessen the number of trains by which we travel; to close schools and churches—unless we force the mine operators to grant the demands of the union which he represents. All of these things, you remember, he did in 1902.

When one comes to think of it, the situation—in spite of its seriousness—is laughable, ridiculous; a fit subject for some comic-opera librettist. Three years ago this month, John Mitchell was proving to his own satisfaction, and to the amazement of the civilized world, that he possessed more actual power than the police and the courts of Pennsylvania; more power than the entire National Guard of that State; more power than could be wielded directly and indirectly by the moneyed capital of the country concentrated in Wall Street. A private citizen of very moderate education, of limited experience in life, this man calmly took the United States of America by the throat, and maintained his merciless grip until he had choked it into submission. That is not a very nice thing to admit; but free-born American citizens who shivered with empty furnaces, in 1902, or gladly paid at the rate of twenty dollars per ton for six-dollar anthracite (when they could get it in quarter-ton lots), should not be squeamish, although the remembrance of their impotence does make their ears burn for very shame. The question which concerns some seventy millions of Americans, just now, is whether the United Mine Workers of America are going to make us suffer next year as they did three years ago.

Now, I have no fault to find with Mr. Mitchell as an individual. I have no concern with him as a private citizen, and am here referring to him solely in his capacity as chief of a band of some 100,000 men and boys which threatens to deprive me, in the near future, of what is practically a necessary of life. I don't care a fig what quarrel he and his union may have with the

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mine owners and operators. If they have differences of opinion about hours of labor, scales of wages or the origin of the moon, it is all one to me. Likewise, I am not interested in the other side—that of the mine owners and operators and the coal-carrying railroads. I have no axe to grind for either side. But when either party to the contest deliberately tramples on my rights as a consumer of anthracite, I make bold to protest. Some fourteen years ago, the late A. A. McLeod undertook to control the supply of anthracite through the Reading Railroad deal, which, as a menace to the public welfare, was crushed by the courts. The McLeod plan was to effect a combination of all operators and owners of mines and of all the coal-carrying roads, so that an absolute monopoly of anthracite could be established and maintained. Audacious as this scheme was, it is doubtful whether even Mr. McLeod ever dreamed of using his power to raise the price of anthracite to $16, $18, $20 per ton, or to shut off the production altogether, for any purpose under the sun.

In order that the uninformed general reader may understand something of the conditions attendant upon a strike, a few words may not be out of place concerning the anthracite fields, in northeastern Pennsylvania, which cover a small, compact territory, holding practically all the available supply of hard coal in this country. A few cities of considerable size and a number of large towns, together with scores of hamlets termed "mining patches," are scattered through a wild, desolate, mountainous region. Originally, most of the mine-workers were Irish, or of Irish extraction. At the time of the "long strike," a quarter of a century ago, there was a minority of Scotch, German, Welsh, and American miners and laborers; but the Irish predominated, and were then, as ever, the principal leaders in the fight. They refused to give in, and peace was finally reached by compromise, after months of struggle. It was then that one of the operators, now deceased, wishing to prevent future strikes, sent an agent abroad to bring back here a ship-load of peasants from Austria-Hungary, who were ignorant, stupid, accustomed to labor for a pittance; and who regarded America as a sort of mundane Paradise, where even the poorest man had some rights. The agent found no difficulty in securing his cargo of human freight, and the foreigners duly arrived in the coal regions. They proved themselves capable of doing the hardest work, were satisfied with

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wages on which an American would starve, and when they robbed or murdered it was usually among themselves. Other operators took the hint, and the steamship companies saw a golden opportunity. Not merely Austria-Hungary, but parts of Poland, Italy, Sicily were tapped, and the stream of immigrants quickly became a flood. A decade later, the original residents of the coal regions awoke to the fact that they had a problem on their hands. By that time, excepting in cities and towns, this imported foreign population, according to careful estimate, was several times as large as the American, Irish, German and Welsh combined. Very few of the immigrants brought their families hither. Most of them came to this country intending to remain but a few years, saving, from their wages of fifty cents or a dollar *per diem,* what was to them a competency wherewith to return to their native land. Here and there were men of intelligence who quickly became small merchants, cobblers, etc., and there were priests, of course. But practically all of the earlier arrivals were densely ignorant, superstitious, firm believers in witchcraft, convinced that because of a lack of military display there was no such thing as law in America. Too many of them had good reason to believe there was no such thing as justice, either. Often oppressed by foremen, constables, unscrupulous merchants and justices of the peace, it is no wonder they became unruly. Violent by nature, accustomed to drinking vile concoctions of alcoholic liquors which would drive ordinary men crazy, they added a very undesirable element to the population. The first thing a "Hunk" would buy was a revolver. If he could not afford one, he would select a couple of large stones and carry them in his pockets, ready for use. The Italian's earliest purchase was a stiletto, or, lacking it, he would buy, beg, or steal a file, sit down by the roadside, grind it (with stones) to a needlelike point, stick the blunt end in a corncob for a handle, and go on his way rejoicing.

Labor-leaders, of course, quickly saw an opportunity to swell the membership of their unions, and, when necessary, put forth convincing arguments. A sample may be found in the case of a brawny "Hunk" who was working on a stripping, some years ago, when a walking delegate and several companions approached, told him a strike was on, and ordered him to cease work. He couldn't understand. He had left home and travelled

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four thousand miles in order to work; that was why he had come to America. So one of the strangers tapped him over the head with a pick-handle. The foreigner dropped, grunted, rose to his feet slightly dazed, and went to work again. The stranger hit him harder next time, and when he dropped he lay there longer before struggling to his feet, and resuming his task. Then the stranger struck him over the skull with the flat side of the pick-axe itself, and the "scab" foreigner sank down slowly, and lay there a limp, bloody mass of inert humanity. When he got out of the doctor's hands, a fortnight later, his head still swathed in bandages, the strike was over; but he joined the union. It was wiser, on the whole.

Since those early days of innocence, tens of thousands of foreigners have learned, to their own satisfaction, at least, that employers and officers of the law are natural enemies of the laboring-man, whose savior—the labor-leader and strike agitator—is to be obeyed implicitly, at no matter what cost. That there were grounds for such belief must be freely admitted by those cognizant of the innumerable forms of petty graft and picayune oppression visited upon these people. For example, in 1891, when the semi-monthly-pay law was being violated by certain of the operators, to the great inconvenience of mine-workers, if not, indeed, to their distress, I went to Harrisburg to acquaint the State authorities with the fact, in the hope of having the law enforced. It was in midsummer, and none of the higher officials could be found; but I was informed that while such a law had been passed, owing to the insistence of the "labor vote," yet all mention of a penalty had been purposely omitted. So there was no way in which to punish the offenders.

It was not until the summer of 1897, however, that the foreigners showed how desperate they could be when fully aroused. Of the controversy leading up to and resulting in the local strike of 1897, in the Hazleton region, I have nothing to say. Whether the men were in the right as to their demands, or the employing operators, does not concern me in the least; but as the terror inspired by the disturbances of eight years ago may have a direct bearing on my comfort next year, I beg to recall it, in some measure, so that the reader may have an idea of the responsibility which is assumed by a man who orders or conducts a strike in the anthracite fields. I wish to

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state here, that Mr. Mitchell did not conduct the Hazleton-region strike of 1897, and the wholesale tragedy that ensued has not been repeated—as yet. But it showed plainly how powerless the employers and the local authorities are to control anthracite-mine workers when they are once enraged. The strike of 1897 originated at a colliery several miles south of the city of Hazleton, and for a time matters were comparatively quiet. One day, however, we learned that the foreign strikers, led by some of the old hands, had commenced "marching." Now, in the anthracite region, the "marching" of miners on strike means something serious. If you are a mine-worker living in a remote mining-patch and have refused to join the union, it is not reassuring to learn that a "march" has commenced in your direction; for you know that means that a score, or a hundred, or two hundred, reckless, desperate men, armed with clubs, are bearing down on your home to try the effect of moral suasion—so called. Furthermore, you know that mighty little sympathy will be wasted on you if you are beaten to a pulp, or are knocked down and have your ribs kicked in or one of your eyes gouged out. Most of the local newspapers are hearty supporters of the labor element for purposes of revenue; and correspondents of almost all the city newspapers know that it is better, for increased circulation, to support a hundred thousand laboring men, than to defend half a dozen railroad corporations, and possibly a hundred individual operators—the anathematized "Coal Barons" of journalistic parlance. After a few days of mild "marching" in 1897, the mobs grew in number and volume. They fed on excitement, and as they went careering along the country roads they seized and impressed into their ranks men who had nothing to do with the strike. Drivers of grocery wagons were taken from their seats, commercial travellers were pulled from their buggies, and other outsiders were forced to go along with the hooting, yelling, threatening mob *en route* to use "moral suasion" on some mine-workers who had refused to join their ranks.

At that time the sheriff of Luzerne County was James Martin, a man who was striving to live up to his oath of office. He tried for weeks, with a posse of deputies, to maintain order, but in vain, for violence increased alarmingly. On Friday, September 10th, he and his men hurried from point to point where mobs had gathered, and he read the riot act to them over and over

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again with no results. Late in the afternoon, he learned that a mob of foreigners was marching toward Lattimer to use moral suasion on men living there who refused to go on strike; and he hurried thither in a trolley-car, at the request of the superintendent of the colliery, to protect the people and the mining-plant. He and his deputies arrived ahead of the mob, and the deputies, armed with Winchester rifles, were lined up on private property belonging to the coal company. When the mob came in sight Sheriff Martin stepped out to the public highway and attempted to read the riot act once more; when he was seized, knocked down, and kicked into a ditch by the "marchers." It was then that some or all of the deputies fired at the mob, and rushed forward to rescue Mr. Martin. Twenty-two of the mob were killed outright, and thirty-nine wounded were taken, as quickly as possible, to the surgical hospital in Hazleton. As I wrote, at the time, for *Harper's Weekly:*

"The excitement in Hazleton and in the surrounding towns Friday night was simply terrible. The streets were choked with men and women, who shrieked curses at the 'bloody butchers,' the 'hired murderers,' and 'corporation assassins,' as the deputies were called; and there is little doubt that, if any of them had been found on the streets, he would have met assault and perhaps death at the hands of the enraged populace. It is a fact, almost beyond belief, that within a few hours after the awful event at Lattimer irresponsible blatant politicians had seized the opportunity to further their hold upon the so-called 'laboring classes' by demanding the execution of Sheriff Martin and his deputies, and by speaking of the 'bloody massacre' and of the 'martyred dead.'

"For some reason news of the encounter at Lattimer travelled slowly through the country to the southward of Hazleton, and did not reach the mining-town of Macadoo until about nine o'clock at night; and then the report in that vicinity was to the effect that a large proportion of the English and American miners at Lattimer had started to murder all the foreign miners who could be found. Within an hour, two to three thousand maddened foreigners were sweeping over the mountain roads, firing revolvers and guns into the air, and shrieking that they would kill every white man in Lattimer and burn the town. They intended to sack the gun-stores in Hazleton on their way—at least such was the report brought to Hazleton by a courier on horseback, who had escaped notice of the mob and had got ahead of them. He aroused a number of gentlemen in Hazleton, who seized the weapons with which they had provided themselves since the riot began, and ran toward a prearranged rendezvous on Broad Street. In some cases families were sent into the cellars of their homes, and in others wives and elder daughters sat, guns in hand, at upper windows, ready to cover the retreat of husband and



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father should the men be driven by the mob from the corner by the Presbyterian Church, where it was decided to make a first stand. But, fortunately, the mob at Macadoo defeated its own purpose. In order to prevent the people of Hazleton from learning of its action, all telephone wires had been cut; and when a courier from Hazleton rode back toward Macadoo and told the on-coming rioters that regiments of the National Guard already were pouring into Hazleton, the statement could not be disproved, and of course the cowardly mob dispersed and ran to cover. Meanwhile, the courier first mentioned had pushed on from Hazleton to Lattimer, and before midnight that town was literally deserted, with the exception of one Welshman, who stayed in his house with his wife, who was too ill to be moved. All the other English-speaking people—men, women, and children—fled without stopping to dress. Through the woods and over the wild mountain roads they hurried, women and children as well as men, stumbling through briers and over rocks and logs in their bare feet, and facing the cold and dampness clad only in their nightclothes. Some who were too feeble for flight hid in shafts of the mines, and others buried themselves to the neck in the loose dirt of culm-piles. It was a night of terror indeed, and not until the sun was well up did any of the people return to Lattimer. . . .

"Governor Hastings ordered the Third Brigade of the National Guard of Pennsylvania, together with two detachments of cavalry, to proceed to Hazleton, and his order was telegraphed shortly before midnight on Friday. At twenty minutes past six o'clock Saturday morning the first of the transport trains came slowly into Hazleton, twenty picked guards, with loaded and bayoneted rifles, standing on the locomotive and examining the tracks for dynamite cartridges, which, it was feared, might have been placed thereupon. Thirteen hours after the Governor's order had been issued, the entire brigade of 2,800 men had reached Hazleton, and had reported for duty to Brigadier-General Gobin."

Within a fortnight the region was quieted; and as soon as the people learned that they really could go to work, without danger of being clubbed, or stabbed, or having their houses burned, the mining of coal was resumed.

It was not until after the Lattimer tragedy that Mr. Mitchell arrived in the anthracite fields, and achieved his prominence there as organizer, later as President, of the United Mine Workers of America. By the year 1900 he had a strong membership; and this, together with the fact that a Presidential election was impending, made favorable conditions for a strike. The coal region was practically tied up. Demands, conferences with operators, conventions, followed one another in rapid succession; and, for a wonder, there was little violence at first. But the operators showed a surprising amount of courage; for weeks they would not give in—not even when they knew that possibly a Presidential

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election hung in the balance; for, of course, a large section of the press tried to make political capital of the affair. Mr. Mitchell conducted his end of the strike in such a way as to compel admiration, all the time counselling peace and moderation. But at this juncture there appeared in the Hazleton region a gray-haired woman, since known to fame as "Mother" Jones, and she supplied the spark that was necessary to start the rioting, create a reign of terror, call out the troops once more, and finally have the operators consent to a compromise on the eve of the election of President McKinley. While Mr. Mitchell was visiting one point after another, all over the region, consulting with his general staff, directing the campaign in every possible way, and assuring the reporters that his men must and would preserve law and order, and refrain from violence, "Mother" Jones was going from village to village making wild harangues, working her hearers up to a point of high excitement, and leading mobs of half-frenzied women and girls on wild moonlight raids through the woods, from patch to patch, terrorizing the wives of non-union miners so that their husbands could get no peace at home until they joined Mr. Mitchell's organization. If you have ever seen a mob of these desperate "Amazons of the Coal Regions," as they have been fancifully termed, you will understand that it is no child's play to oppose them. If you have any doubts in the matter, ask any coal-and-iron policeman to relate some of his experiences with them. That Mr. Mitchell employed the Jones woman to go out and make trouble, was generally disclaimed, at the time, by supporters of the United Mine Workers of America. And I am reasonably sure that the owners and operators of the mines did not bring her to the region, and pay her hotel bill and other expenses. It is possible, of course, that she came there of her own volition, and at her own expense, in a spirit of helpfulness and self-sacrifice. But I never heard that Mr. Mitchell repudiated her; and he certainly did not make her stop her harangues and raids through the country.

In due time, General Gobin and the National Guard again came rushing up the Lehigh Valley, to take charge of Mr. Mitchell's first spectacular anthracite strike. The troops, with headquarters at Shenandoah, found the inhabitants of the country reaping a whirlwind indeed. General Gobin was unable, even

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with the large force at his command, to restore order. His cavalry rode hard and swiftly day and night over the mountains; his infantry patrolled villages and well-travelled roads. But riots and individual cases of outrage by the score were reported in remote localities. There was no let-up to the guerilla warfare; nor to Mr. Mitchell's public insistence that members of his union should preserve law and order; nor, by the same token, to "Mother" Jones's wild harangues at meeting after meeting of strikers and sympathizers. Meanwhile, cold weather was approaching; so was election day. A roar of indignation went up from the country over the scarcity and high prices of anthracite. Demagogue newspapers and demagogue politicians suppressed the truth as to violence, outrage, assault, murder, terrorism due to the strike, and launched their political batteries with telling effect at the mine owners and operators, whom they alleged to be engaged in a remorseless conspiracy to make serfs of the mine-workers, to grind their faces in the dust, to place on them the shackles of industrial slavery. And Mr. Mitchell, marvellously calm and self-contained in the storm-centre of it all, kept up the courage of his men, refusing to forego a point or sue for peace. Then suddenly, a few days before President McKinley's election, the strike was declared off, order was restored, the troops went home, and coal-mining was resumed. Friends of the mine owners and operators did not hesitate to assert that extreme political pressure forced a yielding to Mr. Mitchell's demands. At any rate, it was Mr. Mitchell's followers, not the operators, who seemed to be particularly happy over the outcome; and, because of this victory against tremendous odds, the United Mine Workers had a large and loyal membership in 1902, when Mr. Mitchell assumed the responsibility of conducting his second anthracite strike, which all of us recall with a shiver.

This time violence and outrage were long continued, and for the reason that among the sheriffs of the anthracite counties there was none courageous enough to defy the labor vote, and call for troops, until rioting had assumed the proportions of an insurrection. The Governor of Pennsylvania cannot send troops to a county where disorder prevails, unless the sheriff thereof confesses his inability to maintain law and order, and asks for military assistance. The coal-region sheriff who has any regard for a political future (or any other career, for that matter)

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knows that his business is to keep the National Guard as far away from his territory as possible; and he will do almost anything rather than call on Harrisburg for help. Matters went from bad to worse in 1902, until, finally, the Governor sent the entire National Guard of the State—infantry, cavalry, artillery, an army of some ten thousand men—to put down the insurrection. And after he had this army in the field (General Gobin testified later), it was literally unable to cope with the situation.

All this may seem ancient history; but the point I wish to bring out is that, during the anthracite strike of 1897, the mine-workers learned that they had nothing to fear from local police, and very little from county officials.* They stopped rioting not because their leaders told them to, but because General Gobin and the troops arrived on the scene a few hours after the Lattimer affair. The next thing they learned was that in a national exigency political pressure could be brought to bear on the operators, when nothing else would force them to yield. This was in 1900. Finally, in 1902, the anthracite-mine workers learned, to their unbounded satisfaction, that the entire military force of the State of Pennsylvania was unable to control riotous conditions attendant upon their strike; that neither they nor their leader would be called upon to take any consequences of wholesale rioting. They learned that, realizing the inefficiency of the government of Pennsylvania, the President of the United States felt there was only one way to end a situation that literally was "intolerable" to a large proportion of the American people. Therefore, in 1902, an armistice was accepted by Mr. Mitchell; rioting and minor disorders ceased; and the manager of the strike went to Washington, in his capacity of plenipotentiary, to talk over a possible treaty of peace with envoys representing the mine owners and operators.

The important thing to be noted right here—to have a large pin stuck in it for future reference—is the fact that *rioting, assault, intimidation, throughout the entire anthracite region, ceased when Mr. Mitchell agreed to a truce pending arrangements for a treaty of peace.* Comment on this would be superfluous.

* It will be a long, long time before another sheriff's posse fires on a mob of rioters in Pennsylvania. Future deputy sheriffs will have no earnest desire to be tried for murder, as were Martin's men, even with chances of acquittal in their favor.

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In spite of the enormous funds in his treasury, and in spite of contributions obtained through systematic solicitation by Mr. Mitchell's representatives in many cities and towns, there is not the slightest question that the strike of 1902 would have been adjusted long before cold weather, had it not been for the violence and disorder that terrorized miners and laborers alike who wanted to work right along in support of their families. I have no hesitancy in declaring, from the point of view of a disinterested observer, that a general strike in the anthracite region could not by any possibility last longer than three or four months, provided law and order were maintained, and secret terrorism prevented. That is the kernel of the whole matter, and it is patent to every one who personally knows the conditions prevailing in the anthracite fields. Furthermore, there is no question whatever that a strong, sanely managed labor-union is, in the long run, necessary to the peace, prosperity, and liberties of the mine-workers. Unlimited power on the part of operators—unlimited power in any hands—cannot but result in oppression and injustice. Not merely the mine-workers, but every American, would be the better off if Mr. Mitchell's union were conducted with real intelligence, wise moderation, due regard for law, and for the public opinion that creates law. The United Mine Workers of America would be a powerful agent in our civilization if it substituted business acumen, skilful diplomacy, fair dealing with employers and with the public, for the strikes and resulting violence and general suffering which have made it despised and heartily hated throughout the country, even by those who are afraid to express openly their real feeling in the matter.

At the present time, according to despatches from Tamaqua and Shamokin, Mr. Mitchell, as President of the United Mine Workers, is covertly threatening, by means of a strike next year, to seize us by the throat, and choke us until—when we can stand the pressure no longer—we force the mine owners and operators to submit to his demands. His demands, or some of them, may be fair and just; but, if he wants to make people believe that they are, he needs to cease his threats instantly, and propose a settlement of all questions involved through a board of arbitration. In the court of last resort, that of public opinion, the counsellor who has fairness and right on his side does not find it necessary or desirable to appear with bowie-knives and revolvers

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bristling in his belt. According to the Tamaqua despatch, Mr. Mitchell asks for a working-day of eight hours, which may or may not be reasonable. And he also demands that no man be permitted to earn a living for himself and his family in the anthracite mining industry, *unless he is a member of Mr. Mitchell's organization* and contributes to its finances. If Mr. Mitchell would devote as much time and money to making his union attractive, and valuable and respected, as in conducting strikes, he simply couldn't keep mine-workers out of it. They would flock to his banner from foreman to driver-boy and slate-picker—every one of them; and the public, as well as they, would be all the better for it. Instead of expending $2,400,000 in a disastrous war, like that of 1902, low rates of insurance could be given to the members, libraries could be maintained, lecture-courses and other entertainments provided, sick-benefit funds and better schools established. If the United Mine Workers of America were that kind of an organization, its power and influence would be inestimable, irresistible. It could get anything in reason that it asked of the operators; for it would be upheld, supported, endorsed, by the entire Nation.

During his personally conducted anthracite strikes, Mr. Mitchell has seen one of the most populous regions of the United States undergo industrial paralysis for months at a time; a multitude of women and children without sufficient food, clothing, medicines; hundreds of fathers unable to pay rent for their little homes; troops by the thousand, five thousand, ten thousand, thrown into the field in a vain effort to end pandemonium and restore American liberty with arguments of lead and cold steel; millions of innocent people, from Detroit to the Atlantic seaboard, suffering seriously because they were deprived of fuel. And no man can tell how many of the aged, feeble, frail, died as a direct result of his strike of 1902.

Brave, indeed, or reckless beyond comprehension, or drunk with lust of power, must be the man who, knowing the conditions, would dare to order or manage another anthracite strike, unless those who blindly follow him are in direst distress, in perilous extremity from which there is no other possible escape!

HENRY EDWARD ROOD.

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# WORLD-POLITICS.

LONDON: ST. PETERSBURG: PARIS: WASHINGTON.

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LONDON, *September, 1905.*

FOR the conclusion of peace between Russia and Japan England, like all Europe, gives the first praise to Mr. Roosevelt. He has added immeasurably to an international reputation that was already greater than had been won by any American President of the past, except Washington and Lincoln. His position is now unique among the statesmen of the world—unique, because he is not more widely admired than trusted. There is another great ruler, not less individual than Mr. Roosevelt, endowed like him with many and splendid gifts, of equal range if of slightly inferior solidity, and with a temperament as generous and tingling as the President's own. Yet even those who are most appreciative of the Kaiser's personality cannot blind themselves to the occasional demerits of his policy, cannot say that the surprises he springs upon the world are always pleasant ones, and cannot always rank his influence among those whose tendencies, in Kant's expressive formula, lie in the moral rather than the pathological direction. But in Mr. Roosevelt's case there is not, happily, one opinion of his qualities and another of the uses to which he puts them. Both as a man and a President, he has succeeded in winning the unstinted confidence of rulers and peoples alike; and confidence has now been reenforced and buttressed by a profound sense of gratitude. I doubt whether any statesman has ever received so universal a tribute of thankfulness and regard as flowed to Mr. Roosevelt from the very heart of humanity on that memorable day when peace became assured. Nobody in England grudged Americans their boast that the peace was Mr. Roosevelt's peace. It was he who organized it; it was he, again, at a desperate moment, who preserved it.

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As to the peace itself, England's first impression, like Japan's, was one of disappointment and surprise. It had been grasped by few that the Tsar, the head of a military Empire, could not, if he still retained any care for the security either of his person or of his dynasty, pay an indemnity while he still had an army of half a million men in being. Few had understood that for a Tsar under such circumstances to submit to this last indignity of defeat would be almost the equivalent of abdication. Few, too, had realized that the Tsardom was far from being at the end of its resources and that its powers of resistance, though taxed, were not yet within measurable distance of collapse. Few also perceived that the Japanese successes, decisive as they were, yet touched the real life and fortunes of the Russian people scarcely any more adversely than Magersfontein and Colenso touched the real life and fortunes of the British people; that Japan, in short, could not, unless she sent a fleet to the Baltic and bombarded and captured St. Petersburg, bring to bear the crucial and insistent pressure that can alone wring an indemnity from a beaten people; and that, though she might continue the war, and win more victories, and gain compensation in kind if not in cash, the cost of such efforts would be out of all proportion to their intrinsic value. The verbal theories and arguments for an indemnity had been reiterated time and again in every English journal; but the positive, impregnable and overwhelming facts against it had not been mastered either by England, or apparently by Japan, or by the world at large. There was, therefore, at first a feeling of vexed amazement when the terms of the peace were made known, and something more than a suspicion that the Japanese Plenipotentiaries had been outgeneralled. This feeling mingled with a hardly less unreasonable conviction that Japan had shown "magnanimity," when really she had shown the prudence which is the essence of statesmanship. The English press unanimously fell to praising her heart when they should have praised her head. The "Westminster Gazette" alone hit off the precise truth of the situation. It published a cartoon, drawn by Mr. F. C. Gould, who has a genius for politics as well as draughtsmanship, in which the shade of Bismarck was represented as addressing the Mikado with a dubious and puzzled air:—"So your Majesty has made peace without an indemnity!" "Yes, and without a *revanche*."

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For the rest, British opinion has now come round to the more rational view that Japan secures from the peace not only every object which she set out to gain, but an Empire on the Asiatic mainland the possession and development of which must engross her activities, insure her prosperity, and satisfy her need for expansion for many generations to come. There is naturally a good deal of speculation on the durability of the peace. Has Russia, it is asked, really learned her lesson? Will she remain permanently content to be excluded from a warm-water outlet to the Pacific? Has the ambition and the dream of centuries been honestly renounced or will Russia begin at once to double-track the Siberian railroad from Moscow to Harbin in preparation for a fresh and mightier struggle twenty, thirty or forty years hence? No answer to such questions can at this moment be anything but tentative. But I think the general and reasoned disposition among Englishmen is to conclude that the peace is really durable for our time, if not for all time. There are many arguments to support this view. One is the reasonableness and the moderation of the peace itself. It leaves, so far as can be seen, no bone of contention behind; it positively paves the way for friendly cooperation. Another is the internal state of Russia, which, it is thought, will for many years make some contraction of her foreign activities inevitable. A third argument is that, having lost her only adequate naval base in the Far East, Russia can never hope to conquer Japan or to interrupt her communications with the mainland, and that any future war between them must, therefore, be, as this has been, a conflict between Little Russia and Big Japan. A fourth argument is that a further attempt to occupy Manchuria would involve a war not merely with Japan, but with China, too; and not with the China of to-day, but with a China whose armies had been reorganized and disciplined by Japan herself. For a Russian army to *march*—it could not be transported by railroad—through a Manchuria that was defended by half a million Chinamen, armed with modern weapons, trained by Japanese instructors, and fighting with the spirit they showed in the Taeping rebellion, would in itself be a most formidable adventure. But for that army, having accomplished this, to defeat the Japanese forces that would be hurled against it, to reach its objective—and it could have only one objective, Port Arthur—and to besiege and capture that fortress

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when garrisoned by Japanese troops whose communications with their base of supply in Japan it would be impossible to cut—to suppose all this is, it is contended, simply to lose oneself in fantasies. England, in short, expects that Russia will accept the inevitable, will live on terms of amity with Japan, and will share with her in the peaceful task of developing the resources of Manchuria. That particular phase of the Far-Eastern problem which involved the question of Russia's or Japan's predominance is now, it is thought, finally settled—finally, I mean, as statesmen use the word.

With that result as its starting-point, opinion in this country proceeds along three main channels. In the first place Englishmen rejoice, for reasons that are ethical as well as political and commercial, that Japan and not Russia should be the Power to predominate at Peking and to hold the naval supremacy of the North Pacific. In the second place, Englishmen are relieved that Russia should at last have extricated herself from the Far-Eastern morass, and should be about to take up once more, though it may be only after a considerable interval and not in all her former strength, the place that belongs to her in the European system. It has been borne in upon this country by the incidents of the past few months that it is not a British interest that Russia should be weak in Europe; that the withdrawal or the diminution of her restraining power perilously disturbs the European equilibrium; and that an enfeebled Russia means a truculent and dictatorial Germany and an impotent France. There are at this moment some threatening clouds that can only be dispersed by the restoration of the Dual Alliance to its old and salutary effectiveness. And, in the third place, Englishmen are apprehensive that, hurled back from the Pacific, Russia may recoil upon the Persian Gulf or the Indian frontier in menacing force.

This brings me to the indirect, but exceedingly valuable, contribution which was made by England to the success of the peace negotiations. It was authoritatively announced on September 1st that Lord Lansdowne and Viscount Hayashi had, on August 12th, signed a new Anglo-Japanese Treaty of Alliance. (Some of the Liberal journals, by the way, have rightly noted that "it is in itself a somewhat severe comment on the democratic nature of our institutions that this instrument, which

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commits the country to the most serious departure in foreign policy that this generation has witnessed, should have been concluded, without a word spoken about it in Parliament, by a Government which, there is every reason for thinking, does not command the confidence of the public." The point, as a matter of constitutional practice, is well made. All Englishmen know—but the knowledge does not disturb them—that the fiction of popular or even Parliamentary control over foreign policy must, to a great extent, remain a fiction; that Westminster hardly even attempts to supervise it any longer; that Ministries nowadays are never, or very rarely, imperilled by attacks on their diplomatic arrangements; that a few men still mould the destinies of the nation almost as decisively as they did one hundred and fifty years ago; and that in nothing have the speculations of Macaulay and Brougham and the other leaders of the great theoretical age of Liberalism been more completely falsified than in the failure of the Parliamentary system, even when stretched to the full, to do more than register the decisions of the Executive in matters of external policy.)

The terms of the new Treaty have not, as I write, been made public; but it is, I think, a safe assumption that they are a very considerable extension of the Agreement of 1902, and that for the next ten or twelve years Great Britain and Japan for all Asiatic purposes of a defensive character will be one Power. The Asiatic possessions of each are henceforward, it is believed, guaranteed by the military and naval forces of both. The new Alliance will, in all probability, be found to uphold the commercial and political interests of every Power that is not avowedly bent on disturbing the *status quo* in the Far East. It is hoped that it will not merely preserve China against encroachment from without, but may prove the nucleus of a pacific league that will counteract, if not completely arrest, the international rivalries that have for too long centred on the Far East. If this surmise of its scope and duration is even approximately correct, it is clear that the new Alliance completely guarantees Japan's hard-won security and sets the seal of finality upon the terms of the Treaty of Portsmouth; and that, knowing this, the statesmen of Tokyo were able to make concessions to St. Petersburg that otherwise they would have been obliged to withhold. Perhaps it is not going too far to assert that the new Alliance was the principal

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factor in bringing about peace. Peace is, indeed, its sole object —a peace that will extend from the Persian Gulf to the Yellow Sea and unite Great Britain and Japan as much for the guardianship of the Indian frontier as for the protection, let us say, of Peking.

Obviously, an Alliance that is framed, or is supposed to be framed, for such vast purposes as these must raise many serious questions. What, for instance, is likely to be its effect on native Indian opinion? Will it be construed as a confession that we of England are unequal to the task of defending single-handed the Northwest Frontier against all comers? What again is likely to be its effect on England herself? She has recently been assured by her Prime Minister that she cannot be invaded. If she is now assured that her weakest spot is fully protected and that the greatest danger that threatens her Empire is removed, will she not, in her fatal complacency, be lulled again into that military stupor from which of late, after an infinity of prodding, she has shown a few faint signs of awaking? Moreover, there is the reflex action of the Alliance upon the relations of England and the other Powers that have possessions in the Far East to be thought of—particularly, of course, the relations of England and Russia. If the new Treaty proves to bear out its forecasts, Englishmen generally will regard it as a sort of lightning-conductor to pass on the shock of Russia's recoil from the Indian frontier and the Persian Gulf to Constantinople and the Bosporus.

Once they are relieved from anxiety on the score of India, they will hasten, let me add, to conclude, if possible, a *rapprochement* with Russia. For three reasons. One is that they realize, as I have said, that it is not to British interests that Russia should be weak in Europe. The second is that they are desirous of cementing their friendship with France by extending it to include the ally of France. The third reason is that they regard the uses to which Germany has already put, and the still further uses to which she may be tempted to put, her present diplomatic freedom as little less than a menace to European peace. It may, therefore, be possible for some future historian to date a new and happier era in Anglo-Russian relations from the Treaty of Portsmouth and the conclusion of the Anglo-Japanese Alliance.

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THE international play in the last act of the modern world-tragedy, as seen by well-informed Russians, had two parts, of which the first, ending in the decision to call a Peace Conference, may be termed introductory and had for its visible *dramatis personae* President Roosevelt and Count Lamsdorff; while the second began with Witté's departure from Europe, ended with the Treaty of Portsmouth, and was played by a number of actors some of whose rôles and even names are still undivulged.

At present, we must begin the story with a well-merited tribute to President Roosevelt's splendid moral courage and unflagging energy, without which the effusion of human blood in the Manchurian millet-fields would have gone on for many a month unchecked. His mediation was an act involving a degree of courage almost heroic; and, for that very reason, public opinion in the United States wavered and hesitated whether to praise or blame it. In either case, it seemed a matter for superlatives, for the President's move was either a splendid deed of daring or a lamentable act of temerity. In neither case, however, had it the approval of professional diplomatists, whose traditional forms it laughed to scorn. Moreover, after the public and repeated declarations of the Russian Government, a brusque and brutal refusal was more likely than even cold assent. "Look after your own affairs and leave us to mind ours" is the gist of the reply that might have been apprehended. And then? But Mr. Roosevelt knew the Governments with which he was dealing.

The Mikado's advisers could not well refuse the President's invitation without forfeiting the sympathies of the American people, which Japan had worked so long and so strenuously to acquire. Besides, Japan could not decline any such proposal by whomsoever made without contradicting herself. It was her contention that she had been forced into the war; and it was her boast that she was at all times ready to make peace on terms that were reasonable.

Russia, too, had ample motives to close with the proposal. Since the Hague Conference she has had a name to live up to. She cannot play the part of the mere mile-stone, which points out to others the way they should go but itself remains where it is. But neither could she afford to incur the animosity of

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the people of the United States, with whom were the nations, virtually, of all Europe. And there was still another and a very powerful motive at work. The Russian Government was painfully conscious that it had neither hindered nor modified the ideas and strivings prevalent in St. Petersburg and Moscow and elsewhere in the Empire about the war, and it was hopeful that the President's invitation would offer the needed opportunity.

Count Lamsdorff who had the matter in his hands viewed it from the domestic angle of vision. The proposed peace was to be used to strengthen the party of war; enthusiasm was to be roused among the masses; and the impossibility of ending the campaign was to be clearly demonstrated. Then the campaign was to be prosecuted vigorously. Count Lamsdorff formulated the problem thus: Not to accept the Conference would be to lay Russia open to severe criticism, and quite needlessly. For, on the one hand, as the Government would remain free at any moment to break off the negotiations, the Conference would be powerless of itself to stop the war; and, on the other hand, as the envoys' labors would finally end in smoke, Russia could afford to appear generous without sacrificing anything, and might then lay the blame for failure on the shoulders of Japan. Russia might then say: "You see, we truly wanted peace and, if we failed to get it, Japan's obstinacy is to blame and her exorbitant terms." But Europe would never have believed such a statement, the reader may urge. And the objection is real. Neither Europe nor any other country would have credited it. But then it would have been made, like so many other official communications, not for foreigners but for Russia's own people. If they accepted it, their sympathies might yet be won over and the war become popular.

Consequently, the aim and object of the Russian Government, in assenting to Mr. Roosevelt's proposal to send delegates to the United States in order to discuss the terms of peace, was primarily to create an effective apparatus for the purpose of rendering the war against Japan popular in the country. And it was in order that this aim should be compassed that the first part of the drama was played.

The second act was ushered in by the selection of delegates to represent the two belligerents at Portsmouth. For Japan, this was an easy matter enough, because she had won all battles

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by sea and on land. Still, the number of candidates for nomination among the Mikado's subjects was limited. Thus, the Marquis Ito, as Russians believe,* refused to accept the mission, and Baron Komura came in his place.

The Tsar experienced much more difficulty in effecting a choice. For Japan, if not a victor, had at least won all the battles; and Russia, if not utterly beaten, had been driven with slaughter from all her positions. Hence the task of the Tsar's plenipotentiary was, to put it mildly, arduous and unenviable. And the conditions prevailing in St. Petersburg made it much more so; for, while the official envoy would be expected to act in his country's interests, irrespective of his own reputation and everything else, the Government in St. Petersburg would, when necessary, play for its own hand as well, and disavow him if needs were. Nobody, therefore, expressed or felt surprise when the professional diplomats selected by Nicholas II suddenly fell ill.

Then and only then did his Majesty depute Sergius Witté. At first, people thought that Witté would imitate Muravieff and Nelidoff and ask to be excused on the ground of ill health. He certainly would have done so, if he had shaped his action in accordance with his own interests. For he knew, as indeed everybody knew, that not only was the task beset with difficulties, but that it abounded in snares. Moreover, whatever the upshot, the Government was resolved to bear no responsibility for complete or partial failure, and to share with no one the credit of success. In the latter case, it would be said that the plenipotentiary merely carried out the instructions given to him by his Government; while, if the peace terms proved unpopular, Witté would have been thrown to the wild animals.

But patriotic considerations moved the President of the Committee of Ministers to undertake the work. "Patriotic motives," M. Witté calls them, and they were certainly that; but they were also reinforced by the consciousness of his own independence. He had long before severed the bonds that linked him to the Government, and had struck out a course of his own which he persevered in because he believed it to be helpful to his country and his people; and events had amply justified his ideas. Therefore, he was ready to repeat the experiment. He accepted the nomination and started for the United States.

* The writer of this letter does not share this belief.

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Henceforward, then, the scene was occupied by Witté and Komura. Behind the scene stood President Roosevelt and, in the clouds, as *Dei ex machina,* the heads of the Russian and Japanese Governments.

To Mr. Roosevelt the world in general and the two belligerent nations in particular owe a debt of lasting gratitude, the extent of which is not even suspected. He undertook more than most people knew of; he discharged his self-appointed task more efficiently than any one acquainted with the conditions could have believed possible, and he deserves a much greater degree of credit for the conclusion of the peace than he is likely ever to receive or is willing to accept. That view, however, is not Russia's; it is but the deliberate opinion of the writer of this letter, who has formed it on the basis of a full knowledge of the leading facts. Good Russians, on the other hand, hold that the President's admirable work ceased with the creation of the Conference. Once the envoys came together, his enterprise fell off and success failed him altogether. The final result, peace with Japan, was therefore attained by others.

The firm conviction of those Russians who, regarding peace as a blessing, are unacquainted with certain aspects of the struggle by means of which it was won, is that credit for the achievement is due exclusively to Sergius Witté. His diplomacy worked the miracle. In this, as in every theory which obtains a firm hold over men's minds, there is certainly an ingredient of truth. Witté did unquestionably create an atmosphere without which the needful concessions would never have been granted by the Tsar. He cleared the ground for Roosevelt and for the wholesome whiff of public opinion which the President let loose against the secular court prejudices. The atmosphere created by Witté neither involved a vital concession nor ensured peace. But, on the other hand, the great event which the world has hardly yet ceased to applaud could not have taken place at all unless the surroundings were favorable; and, of these surroundings, some include a number of conditions independent of the human control which we generally class together as "chance," while others were the result of a deliberate and clever scheme conceived and executed by the Tsar's plenipotentiary.

Witté's first move was to convince everybody that peace was impossible. And, judging by the temper of the two Governments,



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it was not only impossible but inconceivable. For they were both convinced that, if their respective armies had but a few months longer to operate, they would work wonders and create a wholly new basis for peace negotiations. Linievitch, Kuropatkin, Mishchenko and all the principal officers of the Russian army had, over and over again, written or telegraphed to the Tsar in that sense. And Nicholas II was certain they were right, and equally certain that it was his duty and his interest to give them the additional time for which they were craving and to go on with the war. And ethics? Nothing could be more ethical than that, his advisers urged. For it would mean permanent peace, whereas war without decisive victories would be at best a mere truce.

Witté compelled his own Government first, and most other people as well, to feel that peace under such conditions was not only impossible but undesirable. And when the Tsar, Count Lamsdorff and the politicians of the United States had acquired this conviction, they naturally imparted it to the Japanese. That was the first and principal step taken by Witté.

Now, the results of that "atmosphere," as it has been aptly termed, were peculiarly favorable to negotiations between the plenipotentiaries, for it rendered possible concessions which, under any other conditions, would have been beyond the reach of the most clever diplomatist. Confident that the war would go on, the Russian Government ceased to be chary of concessions which after all meant nothing and bound nobody. What Witté said, expressly or emphatically, was: "Show the world that you are conciliatory by giving all the concessions you possibly can, because that will enable you to convince the masses in Russia that the Japanese are to blame, not we." With that motive to push them, the Russian Government ceded on many points on which they would have otherwise stood firm.

The press, convinced that the campaign would be continued and that the Conference was but wasted breath, made persevering and strenuous efforts to coax or shame each side into meeting the other half-way. And, as soon as Russia had hurried through the eight clauses, relatively non-contentious, of the Japanese demands, politicians in the States began to say that Russia had shown herself very generous, and that it was Japan's turn now; and men of prominence who had invariably been admirers and friends of the Japanese gave it as their opinion that the Mikado

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must make a supplementary sacrifice for peace, and that he could well do this without serious money losses or diminution of prestige. And Japan, who began to fear that Russia was playing to the gallery only and was resolved not to make peace at all, showed herself less uncompromising than before. But, when it began to become apparent that, perhaps after all, peace was probable, it was, of course, too late to take back what had been ceded. At the same time Witté cultivated the press. He chatted familiarly with newspaper men, took some of them into his confidence, won the sympathies of the American people and moved every wheel of the machinery of journalism. The advantages he reaped from this side were very considerable: public opinion was mobilized against Japan, who had condemned herself to silence during the time when silence was leaden and speech was golden. Some people said she was conceited and aggressive; others called her avaricious. It was this public opinion which moved Japan to withdraw her money claim.

By their self-denying ordinance not to take the press into their counsels the Japanese threw away one of their most effective weapons. It seemed a splendid spectacle, however, that of a nation's representatives calmly sacrificing the interests of their people to a stipulation which everybody looked upon as meaningless. "Better lose half the island of Saghalin than give an interview and break our word," one of the envoys is rumored to have exclaimed. And it would have been a spectacle worthy of the very gods if the Mikado's envoys had, indeed, held out to the last. Unhappily, they faltered at the decisive moment: they both gave interviews to one or more newspaper correspondents, by which, however, they gained nothing, explained nothing, yet lost the prestige which they had so laboriously acquired.

Another subject of reproach which has been made against the Japanese was their attitude on the indemnity. To give up the money claim in deference to public opinion was an act of statesmanship, the wisdom of which cannot be called in question. The Mikado undoubtedly did the right thing. But was it at the right moment? Here opinions may differ. But, when all the facts are finally known, it will be seen that the time was ill chosen. For what many people said, when the news first reached the outside world, was that it was the Japanese and not the Russians who had been bluffing. If they intended, as they must

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have done from the very outset, to withdraw the money claim, why, it may be asked, did they allow their own people firmly to believe that a war indemnity was and would remain an integral part of the peace terms, and why did they permit the envoys to declare solemnly and emphatically that it constituted part of the "irreducible minimum"? To these questions there is an answer, but the world may not consider it satisfactory.

When the money claim was suddenly withdrawn and peace assured, the Russian Government showed no joy, no satisfaction. On the contrary, they waited for two days before making any sign whatever. For over forty-eight hours the world remained in suspense; nobody knew what the Tsar's advisers felt and thought. The Tsar himself offered no congratulations to Witté. Then, for the first time, the thought occurred to many that the Russian plenipotentiaries had, indeed, made peace on their own responsibility and while disregarding their official instructions. Those who were best acquainted with M. Witté asserted that nothing was more likely than that; and they added that, if this surmise should prove to be correct, Sergius Witté on his return to his own country would be quietly relegated to private life, or at all events "permitted to take a long holiday abroad," in which case we shall hear of him wintering in Rome, Florence or Naples.

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PARIS, *September, 1905.*

A FEW years ago, in the obscure town of Auxerre, an unknown teacher, M. Hervé, used to write for a Socialist rag anti-militarist ranting which nobody read. One morning some petty scandal gave him an occasion of saying that two officers in the garrison had dragged the French flag in the mud. The rival Auxerre paper denounced this blasphemy, accusing M. Hervé of writing that the French flag rose from dirt. In a few days universal indignation prevailed throughout the press, and M. Hervé became as celebrated as if he had set fire to the temple at Ephesus. Seeing his opportunity, the bold professor sought a wider field and came to Paris, where he started a violent magazine destined above all for schoolmasters, and penned a History of France for the use of schoolboys, the spirit of which was anything but patriotic, and to which I shall have to advert later. M. Hervé rose in the estimation of the Socialist "comrades" with extraor-

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dinary rapidity. He spoke at every meeting, became editor of another paper, and was elected a member of the highest councils.

When the presence of the Kaiser at Tangier and his Moroccan statements had to be construed by everybody as a threat, M. Jaurès in the "*Humanité*" and M. Hervé in the "*Avant-Garde*" gave two very different notes. The former said in a dignified and melancholy tone that, if France were to be attacked, the whole nation would rise in arms, as if the Socialist dream of disarmament already were a reality, and every citizen a soldier for life. M. Hervé chose a higher position, declaring that war—defensive as well as aggressive—was stupidity and barbarity, and that, in the event of a German invasion, the reservists ought to "strike." M. Hervé, further, pointed out with characteristic indiscipline what he called the inconsistency of his chief, M. Jaurès. Under no circumstances, he insisted, was any form of war reconcilable with Socialist principles.

The reader should be informed that the various Socialist groups had been unified under one Supreme Council when the "*Humanité*" and the "*Avant-Garde*" were expressing such divergent views, and that of the Supreme Council M. Jaurès was President and M. Hervé a private, though highly influential, member. Several Socialists who had made their mark in Parliament called upon the responsible President altogether to disown M. Hervé's principles, adding that they refused to be "unified" with a man to whom Socialism meant a repudiation of every national feeling. Strange to say, M. Jaurès, after a few days' visible wavering, preferred siding with the man who attacked rather than with those who defended him, and would rather bear the secession of such men as MM. Gérault-Richard, Clovis Hugues, Augagneur, etc., than do without the compromising assistance of M. Hervé.

As is natural with the thoroughbred Radical, M. Hervé evinced no gratitude for this treatment, and went on sneeringly trying to bring his superior to a sense of consistency. Besides a great many general arguments which he found to hand in the Socialist doctrine, M. Hervé unearthed one of a more individual character, and more likely to tell in a controversy of this kind. Some fifteen years ago, M. Jaurès had said in a public letter to the Italian Deputy, Andrea Costa, that the Triple Alliance was an excellent make-weight for French chauvinism, and he was now reminded of

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his opinion of those days. From that moment, the editor of the "*Humanité*" agreed that war ought not to be countenanced on any account, that the patriotic idea, rightly understood, never involved it, and he began to defend this position against M. Clémenceau, whose keen, incisive wit compels him, day after day, to see that it is untenable. Shortly after, M. Jaurès made up his mind to fly where the diplomacy of M. Rouvier was creeping, and announced his intention of delivering in Berlin a speech which would preclude all possibility of a war now. This oration was never delivered; but, as it had been written, it soon appeared in print, and we know its main contention. People who hear of M. Jaurès exclusively as the leader of a party that ruled France for seven years and an orator of exceptional power, will be amazed at finding that this thesis, which was to keep war off, can be summed up in the very trivial proposition that "England, France and Germany, being the three brightest lights of the world, *cannot* make war on one another."

The circumstances which prevented Jaurès from delivering this astounding piece of political eloquence are well known.

The German Chancellor, Count von Bülow, thought it safer to have M. Jaurès as an ally in Paris than in Berlin, but his desire was imparted to the Socialist orator with a courtesy excessive even in a German addressing a Frenchman. The communication took the shape of a real diplomatic note and passed immediately from the German Ambassador to M. Jaurès. The Chancellor said that he appreciated M. Jaurès's opinions on foreign politics and often agreed with them. He had also pleasure in acknowledging his endeavors towards an *entente* between Germany and France. His objection to the delivery of the lecture, therefore, did not lie in the speaker, but exclusively in the hearers. As the opinions of the German Socialists do not materially differ from those of their brethren of France, we ought to conclude that M. Jaurès is looked upon as useful in France only because he would be obnoxious in Germany. In fact, it is not merely because the editor of the "*Humanité*" gives us *bravuras* on universal peace that the German authorities make so much of him. Certainly, M. Jaurès's efforts to weaken national feeling must, in the long run, prove advantageous to Germany, but his votes in the Chamber against all military expenses are a help of immediate effect, and if Count von Bülow has a

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sense of humor, he must with difficulty have suppressed a smile when writing that he "appreciated M. Jaurès's views on foreign questions."

These compliments from the grand vizier of a monarch not to be accused of democratic tendencies have evidently warmed the heart of M. Jaurès, who faces his many assailants with more serenity than ever. He is at present engaged in the discussion of a definition of patriotism by a Paris schoolmaster, M. Bocquillon, which I will quote to enable the reader to judge for himself. To M. Bocquillon, warmly backed by M. Clémenceau, patriotism consists in "a passionate preference for one's country." M. Jaurès will have it that preference for one's country involves some degree of contempt for other lands, which, of course, means barbarity. Both the schoolmaster and M. Clémenceau handle him roughly for advocating patriotism without preference, that is to say, indifferent patriotism, but he takes comfort in the thought that he is several hundred years in advance of his opponents.

The rather unexpected intrusion of a schoolmaster in a purely ideal conflict will be accounted for by a few details which I will now give concerning the antipatriotic campaign in the schools.

I have said above that, on his arrival in Paris, M. Hervé had edited a magazine for schoolmasters and written a History of France for the elementary schools. Both the magazine and the History were good instances of the spirit which a strong party of theorists are endeavoring, with considerable success, to instil into the rising generation. This spirit is made up of antipatriotic Socialism and wholesale hatred of Christianity.

The anti-Christian campaign began under Jules Ferry some twenty-five years ago, when all the schools became undenominational. For the religious teaching which had been so far given to the schoolboys some substitute was found necessary. Men of such intellectual value as Paul Bert and M. Compayré set to work on text-books of civic morals likely to do duty instead of the banished Catechism. They were spiritualists, and their chapter on the duties of man was based on a chapter on the rights of God. This position was almost immediately disputed. The Radicals of the day maintained that undenominationalism meant atheism, and insisted that the idea of God should be left out of the elementary books altogether. Some atheistic catechisms of

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morals were immediately compiled, and the standard books altered so as to suit the new tendency. Now, it would appear that the antitheistic movement thus beginning about 1880 has been steadily going on. For we hear at present strong protests against the teaching of morals founded on the idea of duty, no matter how de-Christianized, and we witness an attempt to have Kantian replaced by purely Benthamite morals. The child must be taught only that if he does right he will be a gainer. Whatever other motive is proposed to him is tainted with superstition.

M. Hervé began his History of France at the year 1789, and of the previous centuries ignored everything except their abuses. This was called the republican view of history. There is also an enlightened—as compared with a barbarous—treatment of the history of France. It consists in suppressing, or branding as immoral and unworthy of a civilized country, whatever is inconsistent with the form of patriotism advocated by M. Jaurès. The Jaurès of the primary schools is a gentleman whose name, once familiar only to persons interested in education, has now become famous in Parliament and in political circles, I mean M. Buisson. A professor, later on an inspector and a high official in the Department of Education, M. Buisson has always appeared as a dreamer in theory and a dangerous reformer in practice. A superficial broad-mindedness, which he likes to play off has been found several times to be little better than pretence. A philosopher in his study, M. Buisson is a violent Socialist in the lobby of the Chamber. As long as he had the superintendence of the schools, he did his very best to propagate "enlightened" history. One can judge of the extent of his enlightenment by a rather striking instance. Everybody knows the heroic action of the brave chevalier, who, being sent out to reconnoitre at some battle during the Seven Years' War, was suddenly surrounded by a party of Prussians, and, instead of keeping silence, which would have saved his life, called out to the French and instantly fell under twenty bayonets. Finding in some school a picture of this scene, M. Buisson deprecated all exhibition of what he called a "bloody and murderous doing." War to him is inconsistent with any display of really virtuous feeling and averse to true patriotism. This conception has been acted upon, and we do not lack elementary books from which the military aspect of our history is entirely banished.

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The question now arises whether this view has already had some effect. It is certainly improbable that the French army, still under the uncomfortable impression left by the campaign of delation, should show the spirit which insured the triumph of the ultra-patriotic Japanese soldiers. On the other hand, well-informed observers generally agree that even the Socialist workman, once in a regiment, becomes a tolerable soldier unless he is an active propagandist. The strike of reservists proposed by M. Hervé would attract few adherents from the active corps. Will the strike ever be attempted? Nobody would dare to answer in the negative. It is a fact, and a most ominous one, that the Socialist propaganda is wonderfully successful among schoolmasters; and, if everybody knows how fervid a patriot the French boy usually appeared under the old method, everybody must see that the contempt of the enlightened for the barbarous is contagious amongst youth, and promises a speedy decrease of what used to be called patriotism. All the younger teachers are Socialists and antipatriots. Every one of the five magazines they read is written in the internationalist spirit. In the last issue of that edited by M. Jaurès, the leader exultingly boasted that one out of four schoolmasters is an active Socialist preaching the abomination of war. This may partly be brag. Yet, if it were unfounded, we should not see five Socialist magazines widely circulated among schoolmasters, and we should not see such facts as the two lately recorded, viz: the teachers in the department of Deux-Sèvres establishing a syndicate and having it entered, like any other trade-union, at the Labor Exchange; and two hundred schoolmasters in the Lozère signing what purported to be a patriotic protest, but which spoke of such an unripe idea as that of the United States of Europe as being quite a possibility. M. Jaurès is probably right in believing that the pupils of such masters will be free from antiquated and barbarous fallacies, and one is probably right in supposing that soldiers devoid of the same will be more inclined to fight like old Horace, *relictâ non bene parmulâ,* than like the self-prejudiced Japanese under Port Arthur.

Certainly, there would have been less bewilderment in this country when war with Germany appeared probable, if the delation campaign had not revealed such political divisions between our soldiers as must unnerve the best armies. M. Combes's policy

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of distrust against whomsoever demurred at his radicalism had spread everywhere, and made everybody suspicious of everybody else. This feeling of insecurity has luckily partly made room for one of relief and hopefulness, the rise and progress of which I will now trace.

The reader must remember that a real panic accompanied the retirement of M. Delcassé. For a few days the Minister was treated as a scapegoat, and nine papers out of ten seemed to understand the indignation of Germany against him. This feeling gradually subsided as M. Rouvier prolonged his diplomatic conversation with Prince Radolin; but the whole press retained its first impulse, blamed the policy of isolating Germany, and advised immediate adhesion to the principle of the Moroccan conference. However, a sense of humiliation underlay this cautious attitude, and its presence was made manifest in a solemn circumstance. When M. Rouvier appeared before the Chamber with the short note he had toiled for three weeks to have drawn up in its present state, peace being restored without any injury to our national dignity, it would have been natural that the approval of Parliament should be unrestrained. Yet the note was read and heard in chilly silence; and when a member of the Right, M. Denys Cochin, rose to contrast the awkward feeling he noticed in his colleagues with their enthusiasm at the Anglo-French arrangement, a year before, he was suffered to go on, and raised no protest in reminding the Chamber that M. Delcassé's policy had for many years appeared reasonable and had enjoyed real popularity. The discontent against M. Delcassé's action arose, not from the action itself, but from the danger it had unexpectedly entailed. A feeling of this sort can only be transient. For some weeks more, there prevailed in the press a repining tone against the compromising friendship of England; and I saw some table-talk of Lord Charles Beresford's naval officers at Algiers taken up as sharply as if it had been of diplomatic importance and as good as a treaty. Gradually this superficial grudge gave way in presence of significant events. Early in July, an interview of Admiral Skrydloff was translated from the "*Novosti*," regretting that Russia should have declined a Japanese alliance. On the 7th of the same month, the "*Berliner Tagblatt*" boldly printed the words "Franco-German *entente*," and this hurry in forcing one's friendship on those one was threatening

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only the day before was thought bad form. The visit of the English fleet at Brest had a cheering effect, and the meeting of the Kaiser with the Tsar in Russian waters an alarming effect. In the mean time, one could not but notice the really admirable composure of the English press, in circumstances which could only be unpleasant to English opinion. At no moment would the leading English papers try to dissuade M. Rouvier from adhering to the conference. The result of this presence of mind was the enthusiastic outburst of confidence in the whole French press after the naval *fêtes* at Cowes and London. Such unanimity had never been seen before. Plainly the lurking fear that France might find herself fooled appears at present to be a child's terror, and the combination of interest and sympathy which insures a comparatively solid alliance is realized in the Anglo-French *entente*. It is needless to add that the idea of having the United States as a third party in it meets with no opponent.

This renewed feeling of security is largely due to M. Rouvier. The Premier, throughout the crisis, acted like a man. Though, above all, a financier and little acquainted with the niceties of foreign politics, he would not throw on other shoulders a burden from which he would have seemed to shrink, and began negotiating with a directness and outspokenness which betokened perfect honesty, and would have placed the Wilhelmstrasse in an awkward position if the German diplomacy had gone on insisting on impossible claims. It does not speak well for modern diplomacy that M. Rouvier's first question to Prince Radolin, What is to be the programme of the conference? should have been regarded as a move of exceptional cleverness.

On another occasion, which seems to have been little commented upon abroad, the Premier gave proof both of a shrewdness and energy which delighted this country, which is always ready to admire firmness in the Executive. On July 13th, a Bill of Amnesty was to be proposed to the Chamber. The Bill was couched, as usual, in impersonal legal language; but it concerned chiefly, on the one hand, Déroulède and the Nationalists banished six years ago, and on the other, the officers publicly convicted of delation and punished at the time of M. Combes's defeat. The Amnesty would probably have been unanimously granted but for the violent interference of a Nationalist, formerly in the army, M. Lasies. This gentleman protested at the beginning of the

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sitting against the impropriety of mixing up in the same Parliamentary measure a man like Déroulède, who confessedly is the soul of honor, with the cowardly tell-tales repudiated by the army. These words roused a furious tempest on the Extreme Left; and M. Berteaux, the Minister of War, and the only very active Socialist in the Cabinet, left the Chamber with a threat to impugn the Amnesty which he had so far approved. This sudden division in the Government and the excitement of the Chamber threatened a crisis, and the Socialists did not conceal their delight at this state of affairs. M. Rouvier, who was in the Senate, blissfully ignorant of the tumult, was immediately summoned. In such a case, M. Combes would have resorted to his ordinary method of offering his instant resignation. M. Rouvier, during the twenty minutes or so which it took to drive from the Luxembourg to the Palais-Bourbon, devised another much more ingenious solution. The decree dismissing the Chamber had been signed the day before by President Loubet, and M. Rouvier happened to have it with him. He merely read it to the Deputies, some of whom were amazed, some enraged, most of them pleased. As to the difficulty arising from the failure to reach a decision as to the Amnesty, M. Rouvier turned it by an easy legal fiction, by granting a pardon instead of an amnesty.

On the whole, the situation of France, both at home and abroad, seems unquestionably better at present than it was nine months ago. The presence of M. Berteaux in the Cabinet remains a difficulty, for it will enable M. Guyot de Villeneuve soon to resume the publication of his *fiches;* and, certainly, M. Rouvier would have preferred another Minister of War. I even know for certain that he offered the portfolio of War to no less a person than M. Casimir-Périer, the ex-President of the Republic. But the Nationalist campaign against delation has lost a good deal of its interest, and the country as well as the Chamber will be mostly intent upon the election. In January, M. Loubet comes to the end of his mandate and will certainly not stand for election again, for he has already taken a quiet flat in the most quiet neighborhood of Notre-Dame, and in April the general election takes place. Of this I shall have occasion to speak again. As to the Presidential election, the only candidates so far are M. Combes and M. Fallières; but the recent election of M. Léon Bourgeois to the Senate promises a dangerous outsider.

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WASHINGTON, *September, 1905.*

ONE can but recognize a ripe knowledge of human nature in the Roman custom which prescribed that, just behind an Imperator, as he rode up the *Via Sacra* in a triumphal car, should be stationed a slave to murmur, "Remember that thou, too, art mortal." That was as good a way as any of averting megalomania, and of appeasing the corrosive envy that dogs the footsteps of success. There are favorites of fortune, however, who need no admonition, and who, of their own motion, make a timely sacrifice to Nemesis. Had elation impelled Mr. Roosevelt to crown his double triumph at Portsmouth—we may fairly call it double, not only because he brought the belligerents together, but because it was he who ultimately brought them to accept terms long deemed inadmissible—with the prestige of convoking a second Peace Conference at The Hague, he would have run the risk of exciting a good deal of jealousy and detraction on the part of European sovereigns and statesmen. Who is this man, they might have said, confidentially if not openly, who, being the Chief Magistrate of a people which for a century has held itself ostentatiously aloof from non-American affairs, now puts himself forward in the rôle of Pacificator of Mankind? By what solid potentialities is his presumption backed? He has behind him a standing army not exceeding 60,000 men, and a navy, which, although efficient for its size, is outclassed by that of any of three European Powers. Why should we tolerate a self-complacency which has so meagre a basis of military or naval force, and which is beginning to look a good deal like impertinence? Between nations, as between individuals, there is such a thing as swagger and bounce. Why should we not discipline this young man by declining politely his invitation to a second conference at The Hague, and by intimating with due courtesy that, if he will confine himself to an observance of the restrictions of the Monroe Doctrine, we, on our part, will try to do the best we can to regulate the affairs of Europe.

Mr. Roosevelt, in this instance, might have been excused from a scrupulous consideration of foreign susceptibilities, and from an anxious and wary propitiation of Nemesis, because upwards of a year has elapsed, as it has happened, since the Interparliamentary Union strongly urged him to bring together the nations once more in war-ameliorating, if not also peace-pro-

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moting, conference at The Hague. The President not only granted the request, but took measures through the State Department to sound the great Powers on the subject. All assented cordially to the suggestion except the two belligerents, who, reasonably enough, replied that for them, under existing circumstances, a Peace Congress was scarcely opportune. The proposal, therefore, came to nothing, but a first move had been made, and, such is the comity between nations that we may be sure that a second conference would not have been suggested by any other Power than the United States, had not Mr. Roosevelt distinctly intimated that, in his opinion, the Far-Eastern War having been concluded, the initiative would come more properly from the sovereign who is justly credited with the first meeting of peace-lovers at The Hague. Thus it has turned out that the very circumstances which seemed to have committed our Chief Magistrate to a possibly invidious assumption of moral hegemony have been so shrewdly turned to account that his real influence has been enhanced to an indefinite extent by the discreet eschewment of spectacular exhibition. All's well that ends well. The American President can now say with truth that his Administration has not an ill-wisher in Europe.

Whatever strengthens the respect felt for Mr. Roosevelt abroad must inevitably tighten his hold on the esteem and confidence of his fellow citizens at home. We have beheld of late what almost looked like the dawn of a period analogous to that extraordinary "era of good feeling" witnessed in 1820, when James Monroe was reelected President by every electoral vote save one. Many of the President's warmest admirers are to be found in the ranks of the Democratic party. The Progressive Republicans pin their faith on him. Even the determined opponents of railway rate-making and tariff revision dare not come out in the open and defy him, lest they succumb to an avalanche of public indignation and disgust. The most case-hardened, cynical and wily politicians must have observed, and when, like augurs, they come together in secret conclave, they must admit to each other *sotto voce,* that, whether it be due to fate, or luck, or to the man's own sagacity, somehow or other, no good is to be got out of opposing Mr. Roosevelt. The opponent himself or his programme is apt to come to grief. Politicians who, avowedly or secretly, have arrived at such a conviction are beaten before a

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struggle begins. Their nerves are unstrung; their blood runs cold; they have, in a word, no stomach for the fight. There are already indications that the Stand-Patters and the Anti-Revisionists do not want to face Mr. Roosevelt in the field. They foresee that, certain as he is to control a large majority in the new House of Representatives, and almost equally certain to command in the Senate so large a Republican contingent as, joined with the Democrats, would carry through almost any legislation that should bear his stamp upon it, they may find it impracticable to cope with him directly. Such being their reluctant and unwelcome forecast of the situation, they apparently mean to risk an extremely dangerous manœuvre, that of executing a flank movement in the face of the enemy. They have let it be known, or guessed, that, before undertaking to tackle the President on what to them seem the vital questions of railway rate-making and tariff-revision, they will undertake to hamstring him, by holding up to public derision and rebuke the alleged mismanagement of the Panama Canal by the officials for whom he will be declared responsible. Now, it cannot be denied that $57,000,000, drawn from American taxpayers, have already been expended on the Panama Canal strip, while, although some three years have elapsed since the money was appropriated, no decision has as yet been reached even with regard to the type of waterway which is to be constructed. Here, at the first glance, seems to be a specious ground for animadversion. The more thoroughly, however, the facts are disclosed and discussed, the more difficult it may prove in the forum of public opinion to make the President personally accountable for the procrastination and inefficiency with which the Canal Commission has been charged. The Commission would remain to-day as it was originally constituted, if some of the politicians, who are now loudest in criticism of the lack of progress on the Isthmus, could have had their way. It was Mr. Roosevelt who, after other plans for assuring the exercise of more fruitful energy in the prosecution of the waterway, availed himself of the powers reserved to him under the law creating the Commission, and reorganized it from top to bottom. Nobody questions, so far as we know, the expert qualifications, the vigor, the determination or the trustworthiness, of the present Commissioners. They can be trusted to carry out with promptitude whatever type

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of waterway—whether sea-level canal or lock canal—shall be ultimately selected; while, in order to aid them and the President in making the right choice, some of the most distinguished engineers in this country and in Europe have been called upon to form an advisory board, which, at the hour when we write, is sitting in Washington. After a preliminary examination of projects, all the consulting engineers and all the Commissioners are to be conveyed in a Government vessel to the Isthmus, where they will inspect the route of the Canal and the work already accomplished. There is reason to believe that, before the first regular session of the Fifty-ninth Congress begins, the consulting engineers will have agreed upon a plan, and, if this shall meet with the approval of the Commission and of the President, Congress will be asked to make the necessary appropriations.

One thing may be predicted with confidence, namely, that no preference for a route other than that which traverses the Panama strip and was adopted by the French Company, will be expressed by the advisory engineers or by the Commission. The advocacy of the Darien route, with its five-mile tunnel through rock, or of the Nicaragua route, is a waste of breath, in view of the fifty million dollars expended by the United States in the acquisition of certain territorial rights from the Republic of Panama, together with the franchises granted to the French corporation. Any who try to raise the fundamental question of route at this late day will expose themselves to the suspicion of being emissaries of the transcontinental railways, which want no canal at all. We may also take for granted, probably, that reasonable persons will not countenance an effort to thwart, by the withholding of appropriations, the execution of the plan which shall finally command the approval of the collective wisdom of experts. An endeavor practically to overrule on the floor of Congress a decision vouched for by the consensus of many scientific engineers would be looked upon as inspired by very questionable motives. We assume, then, that a flank attack on the President's prestige, through the imputation of incompetence to the present Canal Commissioners, is foredoomed to failure. The American people will expect those who desire to weaken the general trust in Mr. Roosevelt to show cause more relevant than the procrastination ascribed to former members of the Commission, who have been dismissed by the personal fiat of the Chief Magistrate.

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